I know you did to Mr. Kuykendall, but could you briefly tell that again, the chronology of the collective bargaining as you understand it?

Mr. WOLFE. From the very beginning?

The CHAIRMAN. Yes.

Mr. WOLFE. Beginning with the serving of the notices?

The CHAIRMAN. No. I just want when you started collective bargaining, actually facing each other and talking.

Mr. WOLFE. I think it would be well, Mr. Chairman, to start with negotiations at the national level.

The CHAIRMAN. Yes, I think that is right.

Mr. WOLFE. The unions had asked for national handling of this.

Negotiations at the national level began on September 28, 1966. After some discussions, negotiations, the parties met and agreed to seek the assistance of the National Mediation Board. That was a mutual understanding, that both parties would invoke the services of the Board.

On October 19, just 1 week later, the mediation began and it continued intermittently through January 6, 1967.

Mediation was conducted in the customary manner.

By the way, the Chairman of the National Mediation Board personally handled that mediation. A mediator was not assigned. He did it himself.

As usual, he did an excellent job. That is Mr. Frank O'Neill.

He met with the parties separately time after time. We met together on occasions.

Finally, on October 25, 6 days after mediation began, the unions authorized a strike for February 13, 1967.

On October 27, 1966, 2 days after the strike was authorized, the Chairman of the National Mediation Board submitted a proposal for settlement to the parties. That proposed settlement followed very largely the terms of the settlements that had already been effected with other unions.

The railroads accepted the proposed settlement and the unions rejected it.

On January 6, 1967, the Mediation Board, after advising the parties that the efforts of the Mediation Board were exhausted and an agreement had not been made, proffered arbitration. That is a mandatory procedure under the law.

The railroads accepted the proffer of arbitration and the unions rejected it.

On January 28, 1967, the President appointed Emergency Board No. 169.

The CHAIRMAN. Mr. Wolfe, I think you are giving me the chronology of the mediation. I asked about collective bargaining, when you would get together and talk. Tell me the times you have been together and talked.

Mr. WOLFE. I do not have that record with me, but we met day after day.

The CHAIRMAN. Did you meet for 5 days, 10 days, 20 days, 30 days? You have been at this for almost a year and a half now, haven't you?

Mr. WOLFE. Actually, at the national level since September 28, 1966. Let me count the months.

The CHAIRMAN. That is all right.

You can't tell me anything about any collective bargaining, then?

Mr. WOLFE. All I can say is I think the parties met, discussed, talked with mediators, the Secretary of Labor, the Under Secretary, and did everything we usually do in this type of a case.

The CHAIRMAN. The reason I asked you this question was to read to you a report of the Emergency Board 169, just a paragraph of it.

This Board was made of Ginsburg, Dugan, and McConnell. It says, "As the case developed," and this was submitted on March 10, 1967, and they met on February 1 through 9, as I recall, "it became apparent that no real bargaining had actually taken place between the parties before their appearance before the Board."

That is in February.

I will skip to their conclusions.

"We believe the continuation of this practice will defeat other attempts to improve labor relations in the railroad industry. The Board therefore recommends" and it listed certain recommendations that should be followed.

But it said that there was no real bargaining done until the Emergency Board was appointed.

I believe the Board is correct, that collective bargaining, if this kind of practice is allowed to continue, is dead in the United States. The time you legislate wages for anybody, if you put the railroads under legislation, if it doesn't come in this bill it will come sooner or later. I think the railroads ought to know that. We ought to have collective bargaining. That is what built the Nation.

It looks to me like the machinery has broken down.

Have you any comment on that?

Mr. WOLFE. Yes; I do.

I disagree with the Emergency Board as to the collective bargaining that had taken place.

The CHAIRMAN. These are three pretty prominent men in America. Do you want me to tell you their backgrounds?

Mr. WOLFE. I know them so well.

The CHAIRMAN. You think they made a misstatement?

Mr. WOLFE. In that respect. But as to their whole recommendation, their report to the President, we accepted the report made by those three prominent, fine men, which they are.

The CHAIRMAN. I know that. I am talking about the collective bargaining, where this ought to be instead of being before three or four other people.

Mr. WOLFE. I think the best answer, Mr. Chairman, and I want you to know that I am trying to give you the best answer that I possibly can give you which will square with the facts, is we did settle in collective bargaining with 13 unions, 13 large unions. We were not here or anyplace else asking for help. That is a pretty good indication of whether we bargained in good faith or did not.

It is true we failed in this case. There couldn't be anyone who feels any more badly about it than I do.

The CHAIRMAN. We are talking about two different things in a way. You are talking about the ones that were settled and they were settled. But you have six unions here that are involved in this dispute now, and I am talking about collective bargaining with these six unions.

Mr. WOLFE. Yes, sir, and we did exactly the same kinds of bargaining with these unions as we did with the others.

The CHAIRMAN. Would you submit for the record for this committee how many days you met in active collective bargaining with the unions and how much time was spent on those days?

Mr. WOLFE. Absolutely, Mr. Chairman.

(The information requested was not available at time of printing.)

The CHAIRMAN. Would you say that you spent a week in collective bargaining, 7 days or 10 days?

Mr. WOLFE. I think we spent a great deal more time than that.

The CHAIRMAN. Actually talking? That is, face to face?

Mr. WOLFE. I don't know measuring hours how many days or hours we were face to face. But it is my opinion that when you are working with a mediator and he is going talking with one side for 2 or 3 hours and then with us trying to bring the parties to an agreement, that is just as much a part of the process of collective bargaining as sitting across the table looking for each other.

The CHAIRMAN. It could be, but this is getting to something that involves other people. That is getting to be the system today, I know that. But that isn't men sitting down talking to each other, men of good will, who want to try to settle it. If you have to go to a third party and have him go from one to the other, I don't believe you will ever convey the exact meaning and exact thoughts, if you have to go through a third party.

Mr. WOLFE. Both sides, to the best of my knowledge, completely acquiesced in the procedures that were followed. It has been my experience in national negotiations that with a sincere, hard working mediator working betweeen the parties, your chances of bringing the dispute to a successful termination is better that way than it is if the parties are not making progress and moving together.

The CHAIRMAN. Thank you, Mr. Wolfe.

Mr. MACDONALD. Would you yield for one short question?

Mr. MOSS. If I have any time left I will be happy to yield.

Mr. MACDONALD. I would like to ask a further question.

Don't you think that yesterday had you attended or been invited to that meeting, it would have been a step in collective bargaining?

Mr. WOLFE. To the meeting?

Mr. MACDONALD. At the Secretary of Defense's request.

Mr. WOLFE. My answer will have to be, Congressman Macdonald, that I don't think that has a thing to do with collective bargaining.

Mr. MACDONALD. You would be bargaining whether or not certain goods would be carried in order to avoid an emergency, a national emergency. That is not a step in collective bargaining? Is that what you are saying to me?

Mr. WOLFE. Yes, sir; that is what I say.

Mr. MACDONALD. I find that rather peculiar.

Mr. WOLFE. If that meeting was designed to coerce one side or the other, or put pressures on one side or the other, and if that is collective bargaining, then perhaps that might have taken place.

But I didn't think that is what it was. I thought it was something that the responsible officers of our Government were searching out for themselves in the interest of the country and not intended to bring the parties to an agreement.

As a matter of fact, the negotiators even for the union were not present, if I understand correctly.

Mr. Leighty is not a negotiator. He is not involved in this at all. As a matter of fact, we have settled with Mr. Leighty's union.

Mr. MACDONALD. Thank you.

Mr. Moss. Mr. Chairman, I have just completed familiarizing myself with the testimony of yesterday. I have no questions.

The CHAIRMAN. Mr. Watson.

Mr. WATSON. No questions.

The CHAIRMAN. Mr. Kornegay.

Mr. KORNEGAY. Mr. Wolfe, what, in your opinion, would happen if this committee were to just say we take the position of washing our hands of this matter and throw it back to you, the railroads, and the unions? Would there be a strike?

Mr. WOLFE. In my opinion there would be a strike; yes, sir.

Mr. KORNEGAY. Would you attempt to further negotiate this matter and collectively bargain to arrive at some reasonable disposition of this dispute? That is, with the time that is left, approximately 30 days?

Mr. WOLFE. As I testified yesterday, Mr. Kornegay, it appears that we have reached one of those serious deadlocks that occasionally, but I hope infrequently, happens in collective bargaining.

The railroads are in a very unfortunate position. We deal with 24 unions. It is traditional in the industry that we do not give preferential treatment to one group over the many other groups with which we deal.

After having what we believe to be considerable success in our efforts to make agreements, and then to proceed to give these unions more than they are entitled to, more than can be justified, and thus unsettle everything that has been settled, we believe that that cannot be done and we should not be asked to do it.

A settlement cannot be reached, in my opinion, unless the railroads are prepared to do something that will be more destructive of sound collective bargaining in our industry than has ever happened during the history of free collective bargaining.

Mr. KORNEGAY. I gather in your opinion there would be a strike on June 17, if that is the correct date?

Mr. WOLFE. Yes, sir; I firmly believe that there will be a strike.

Mr. KORNEGAY. Do you have an opinion, sir, as to how long that strike will last?

Mr. WOLFE. No; I do not.

Mr. KORNEGAY. This is assuming it was left up to the parties and there was no intervention on the part of the Congress?

Mr. WOLFE. I do not know how long it would last.

I think such a tragedy should not occur. I think it could not last long. I don't think our country can stand it. I don't think the people of our country should be asked to suffer the consequences of such a devastating thing. Some way would have to be found to dispose of it, and quickly.

Mr. KORNEGAY. I don't know whether you were here the day the Secretary of Transportation testified or not. Were you, sir?

Mr. WOLFE. Yes, sir; I was.

Mr. KORNEGAY. You were here?

Mr. WOLFE. Yes, sir.

Mr. KORNEGAY. I assume that you and your colleagues were familiar with certainly some of the ramifications and impact of a nationwide rail strike?

Mr. WOLFE. I think we were very familiar with it; yes, sir.

Mr. KORNEGAY. I am assuming that the brotherhoods likewise were advised and know what a serious impact it would be to the American Nation in the event of a strike. Is that not so?

Mr. WOLFE. I would think so; yes, sir.

Mr. KORNEGAY. In your negotiations, in your efforts to negotiate between you and the brotherhoods, are those matters taken into consideration? In other words, the public interest in this matter, was it taken into consideration in trying to arrive at some equitable conclusion?

Mr. WOLFE. So far as the representatives of the railroads are concerned that is never out of our minds because, Mr. Kornegay, if the railroads are struck there is going to be a cost, a daily cost, of $12 million a day with no income whatever.

Unfortunately in the railroad industry we have some railroads that are in bankruptcy, we have some that are just struggling along trying to keep out of the red. The wage increases that we have already granted are going to make it even more difficult for those railroads than it has been.

We represent them all and we have to think of them all if we are going to continue to represent them. So we have the interest of all the railroads to think of. We perform a public service as a regulated industry. We must think of the public. We must think of our country.

But under all the circumstances, and particularly the repercussions that will take place with the other unions if we make an unwise agreement, an agreement that cannot be justified, is something that we should not have to do. We should not be compelled to do things that are injurious of all the parties at interest.

And we do not propose to.

Mr. KORNEGAY. In other words, collective bargaining in this instance has failed?

Mr. WOLFE. Sir?

Mr. KORNEGAY. Collective bargaining, the process of collective bargaining in this instance, has failed?

Mr. WOLFE. No. I think collective bargaining in this industry is probably——

Mr. KORNEGAY. I didn't say this industry. I said this instance, in this case.

Mr. WOLFE. Yes. I beg your pardon.

Mr. KORNEGAY. In other words, you have gotten to the point where you say that there is no need for further bargaining, that nothing can be done, you have reached a stalemate, impasse, that future negotiations would be fruitless?

Mr. WOLFE. No.

I think this, Mr. Congressman, that if the President's proposal is enacted into law, there will be available to help the parties a panel of intelligent, knowledgeable men. The President's proposal contemplates further negotiations with the assistance of that Panel.

Mr. KORNEGAY. Let me interrupt you here.

You have had at least two Panels.

Mr. WOLFE. Sir?

Mr. KORNEGAY. You have already had the benefit of two Panels.

Mr. WOLFE. We had more than that.

Mr. KORNEGAY. Three of them.

Mr. WOLFE. Yes, three.

Mr. KORNEGAY. You had the Emergency Board, the Presidential Board, and the Special Panel, the Fahy Panel.

Mr. WOLFE. No. We have had the Mediation Board, the Emergency Board, and the Presidential Panel.

Mr. KORNEGAY. So there are three Boards. Maybe they have been of some help but certainly they haven't been instrumental in reaching a successful conclusion of this dispute. That is my point.

What hope is there that this Board that would be appointed under this piece of legislation would have any different result from those three that you have already had?

Mr. WOLFE. There is this psychological effect, whatever it may be worth: If this proposal is enacted into law, we not only have an opportunity to further consider our respective positions, but we also have the knowledge that if we don't do something we are going to have the dispute disposed of and both sides are going to have to live with it.

Mr. KORNEGAY. For 2 years. Then we are right back where we started.

Mr. WOLFE. Not necessarily for 2 years. That is the absolute maximum.

When you say we are right back where we started, I can't either agree or disagree whether we are back where we started. If the Panel should establish procedures that would dispose of the whole dispute, then I don't think it is reasonable to conjecture that we are back where we started.

Mr. ADAMS. Would the gentleman yield?

Mr. KORNEGAY. Yes; I yield.

Mr. ADAMS. Mr. Wolfe, and I hate to use homilies with Wolfe and Fox involved here, but if you want to have compulsory arbitration which you come out in favor of, aren't you like Brier Rabbit saying, "Don't throw me in the briar patch"?

Mr. WOLFE. I am not too well acquainted with either briar patches or rabbits.

Mr. ADAMS. You will remember Brier Rabbit kept saying "Don't throw me in the briar patch" and that is where he wanted to go all the time.

Mr. KORNEGAY. Brer Rabbit.

Mr. ADAMS. I am sorry.

Mr. KORNEGAY. Brer Rabbit in the briar patch.

Mr. ADAMS. My southern accent is too long gone, Mr. Kornegay, from being in the West too long.

But the precise point, which I think Mr. Kornegay is making so very well, is that if you want to have this settled by compulsory arbitration, which has been the announced position of the railroads, and the do this and set up another Board as the President's proposal does, what hope is there that there is going to be any settlement?

You have achieved what you want.

Mr. WOLFE. All I can do is repeat what I said. The record, in my opinion, is absolutely clear, that the railroads accepted the mediation proposal, accepted the Emergency Board report. There is no reason for anyone to believe, whether you like us or dislike us, that we are not going to accept what this Panel proposes.

Mr. FRIEDEL. Would the gentleman yield?

Mr. KORNEGAY. I will yield if I have any time left.

Mr. FRIEDEL. Didn't you say yesterday that you turned down the last report?

Mr. WOLFE. No; I said that we accepted the 6 percent——

Mr. FRIEDEL. In part. But you turned down, both sides turned down, the last report.

Mr. WOLFE. The unions turned down the whole report.

Mr. FRIEDEL. And you said yesterday both sides have turned down the last report.

Mr. WOLFE. No. Let me repeat it just so there will be no misunderstanding. We reluctantly accepted the 6 percent for the 18-month period across the board. We rejected the 5, 5 and 5.

The unions rejected the thing in its entirety.

In my response, I did not say we accepted the Fahy recommendation. I said we accepted the Mediation Board-proposed settlement. We accepted the Emergency Board's proposed settlement.

Mr. FRIEDEL. But the last one you did not.

Mr. WOLFE. I think, Congressman Friedel, you can go on and on and on, and each time we get a recommendation based on the record where the parties had all the advantages of due process, one side rejects and the other accepts, somewhere along the line you reach the point where you just feel you can't be pyramiding and pyramiding.

Mr. FRIEDEL. I just want to get the record clear. I am not saying you are right or wrong, but I want to get it clear, that both sides rejected the last one.

The CHAIRMAN. Dr. Carter?

Mr. CARTER. No questions.

Mr. MACDONALD. Would the gentleman yield to me to clear the record?

Mr. CARTER. Yes.

Mr. MACDONALD. When we were talking about your not being invited to attend, it was my understanding that you also said Mr. Leighty, one of the chief negotiators for the railroad, did not attend. Is that what you said?

Mr. WOLFE. No. I said Mr. Leighty, who is president of the Railway Labor Executives Association was present, but he is in no way involved in this dispute. He does not represent the shopcraft unions.

We have made a settlement with Mr. Leighty and his union.

Mr. MACDONALD. Was there nobody there from the shopcraft unions?

Mr. WOLFE. According to this report, Mr. Michael Fox was there.

Mr. MACDONALD. Wouldn't it have been helpful for you to try to get together with Mr. Fox at that time? Mr. Leighty is reported as saying, and I have every reason to believe the report, that the Deputy Secretary of Defense, Mr. Vance, indicated early in the Pentagon meeting that the administration had already decided against the proposal.

Mr. Leighty said, "The officials present didn't seem to be interested in our answers to questions about the plan's feasibility or in exploring the matter further."

I say, wouldn't you have liked to have been there to explore the plan further?

Mr. WOLFE. Well, Mr. Macdonald, I can say this to you, that if I had been invited, I would have been there. Whether I would have been able to make any greater contribution than I have elsewhere, which apparently hasn't been too much, that is a question. But if I had been invited, I can assure you I would have been there to do what limited, very limited, things I could do.

Mr. MACDONALD. If you were there, and Mr. Fox was there, wouldn't that have been a confrontation in collective bargaining?

Mr. WOLFE. No, sir.

Mr. MACDONALD. That is, one in which you could explain the railroad's side as to the difficulties that you keep talking about in putting such a plan as has been suggested into effect?

Don't the railroads have more expertise than Deputy Secretary Vance or Assistant Secretary Ignatius in how to run a railroad, if you will pardon the expression?

Mr. WOLFE. I have been out of operating for some time, although I believe I am still an operating man. As to these various people I never even heard of them until I saw their names here. How expert they are in their job, my gracious, I wouldn't be in a position to say. They may be expert railroad men for all I know.

Mr. MACDONALD. But there were no expert railroad men that you do know that were at the meeting? Isn't that correct?

Mr. WOLFE. I wouldn't want to say that the two union people are not railroadmen with a lot of experience. As to the others, I just don't know them. They may be the best railroadmen in the world for all I know.

Mr. BROWN. If Dr. Carter has any time left I would like to ask him to yield, if I may.

The CHAIRMAN. He has time left.

Mr. CARTER. I yield to the distinguished gentleman from Ohio.

Mr. BROWN. Thank you, Dr. Carter.

I would like to clarify one figure that was mentioned yesterday, and which was mentioned again in your colloquy with the gentleman from North Carolina. That is this $6 million a day. That is not the fixed railroad charges. Yesterday you said something to the effect that strikers and nonworkers are paid $10 a day, a total for the railroad industry of $6 million a day.

Would you explain that or elaborate on it?

Mr. WOLFE. Yes, sir. It has been held, and I believe—in fact, I am certain—affirmed by the courts, that employees who strikee in the railroad industry are entitled to unemployment insurance benefits. The benefits are something in excess of $10 a day, and they are paid for 5 days a week.

In other words, if a group of railroad employees strike they are paid $50 plus each week they are on strike, and the railroads pay for it. On the basis of 630,000 employees, at $10 a day—these are rough figures—the railroads would pay $6,300,000 a day in strike benefits.

Mr. BROWN. The railroads contribute to that fund, but it is not my impression that the railroads either pay directly or totally for that amount of money.

Mr. WOLFE. Yes; the railroads build up the fund. No one else contributes anything to it.

Mr. BROWN. It is a separate fund financed in what way?

Mr. WOLFE. Unemployment insurance tax that we pay on our payroll. If that fund, Congressman Brown, goes below a certain figure, then the percentage of our payroll tax goes up until the depleted fund is built up again.

Mr. BROWN. I think I understand how the unemployment compensation system generally works. Am I to understand it works separately for the railroads?

Mr. WOLFE. Yes; entirely so. We have a special act of Congress applying only to the railroads.

Mr. BROWN. This is under the Railway Labor Act?

Mr. WOLFE. No, sir. It is the Unemployment Insurance Act. The railroads have the Railroad Retirement Act, and the Unemployment Insurance Act.

Mr. MOSS. Mr. Chairman, would the gentleman yield?

Mr. CARTER. I yield the balance of my time.

Mr. MOSS. Isn't it a fact that the funds you are referring to, the Railroad Employees Unemployment Fund, is one to which you made currently a contribution required by law?

Mr. WOLFE. Yes, sir.

Mr. MOSS. And that contribution has been considered as a part of the operating expenses of the railroad over the years?

Mr. WOLFE. Yes, sir.

Mr. MOSS. Therefore, you have oversimplified vastly when you say that the railroads will be paying this because your obligation is to the extent of the fund and not an open end one; is that not correct?

Mr. WOLFE. No; that is not entirely correct, Mr. Moss.

Mr. MOSS. I wish you would point out to me wherein I err.

Mr. WOLFE. Yes; I will.

The act specifically provides that the carriers pay a certain percent of the payroll. If the fund goes below a certain amount, the percentage goes up. I am not certain just exactly what that percentage is.

Mr. MOSS. It still is not an open end matter, is it?

Mr. WOLFE. It is 4¾ percent.

Mr. MOSS. It is not an open end matter?

Mr. WOLFE. It is not an open end matter.

Mr. MOSS. You are committed to the extent that the law requires contributions?

Mr. WOLFE. Absolutely.

Mr. MOSS. And only to that extent.

I wanted that cleared for the record.

Mr. WOLFE. I think we have said the same thing in different words.

Mr. MOSS. Thank you.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. I thank you, Mr. Chairman.

I hope what I say to begin with is not considered in any personal vein. I have found that the line of questioning this morning is highly

irregular, and I cannot understand it. It seems to me that some members of the committee this morning have actually challenged the integrity and the motives, and I guess the facts, of Secretary Boyd and Secretary McNamara.

One member even asked if Secretary Boyd was speaking for the railroad association. I am surprised and disappointed that that kind of question was raised.

I think the Secretary of Transportation, Mr. Boyd, and I think the Secretary of Defense, Mr. McNamara, are speaking for the American people. I don't question their integrity and I don't question the motive that prompted the report.

I am surprised that this line of questioning developed, though the witness had nothing to do with it.

As I recall it, the request for a conference with the Department of Defense was made by the unions who wanted to present their plan. I assume that they were there to present their plan. I assume that it was a fair and thorough hearing. If any member doesn't think so, then I think they ought to challenge them and say so publicly.

We can request that the Secretary come back for a meeting. I think we ought to have any kind of hearing anywhere, with any individual, that would honestly and sincerely help the hearings.

But if we bring the Secretary back, we will have testimony on other points, on seizure, and further delays, and if the report is made in the morning they will say it should be made in the afternoon, and if one report is signed by 20 people they will say it should be signed by 50 people.

Mr. Moss. Mr. Chairman?

Mr. PICKLE. I do not yield.

Mr. Moss. A point of personal privilege.

The CHAIRMAN. The gentleman from California.

Mr. Moss. The point of personal privilege goes to the matter I requested very vigorously, on the meeting which apparently took place yesterday. I want to point out to the gentleman that the Secretaries of the Departments of the Government represent the President of the United States, that the members of this committee are elected by free people and we speak for those constituencies. I do not yield to the Secretary of any Department an assumption that he speaks for the American people with any greater right or force than I do.

Any inference to the contrary I think demeans this body. I don't intend to remain silent while it is made.

Mr. PICKLE. I would ask the gentleman what is his point of order?

Mr. Moss. My point of order was precisely as stated. It was a point of personal privilege. I did not make a point of order. A point of personal privilege is a privileged matter.

Mr. PICKLE. Mr. Chairman, I assume there is a difference of opinion here.

I said at the beginning I hoped nobody would think my statement personal because I have not raised any questions or raised my voice in almost 2 weeks of hearings, but the line of questioning, it seems to me, is not pertinent to the facts.

Nevertheless, this is our system and I accept it.

Of course, we do speak for the people and, of course, the Secretary of Transportation and the Secretary of Defense also speak for the people.

You can twist it any way you want to, I say to the gentleman of California, but it is still a fact.

Mr. Moss. Mr. Chairman?

Mr. PICKLE. Does the gentleman have another point of order?

Mr. Moss. The gentleman referred to twisting. I point out the Constitution states the obligations of a Representative. It is not a matter of twisting.

Mr. PICKLE. I would be willing to accept another word, if you would submit it.

Mr. Chairman, I don't want to get into this line of discussion. I simply want to make my point that I think the questioning has been highly opinionated. That is part of the system, but I want to express my own opinion.

Let me say to the witness I appreciate the statements you have made with respect to the measure I have introduced. When you made that statement yesterday I received it with some mixed emotion. I didn't know whether it would hurt or help my bill. But I do thank you and I appreciate your description of it.

I have listened with a great deal of interest to the point you made how we might improve it if we don't give the President as much discretion, but let it be shared by some board or committee. I want to look into that.

I have a couple of questions that I want to ask further on that bill, as I have time, or if somebody will yield to me, or if I have the chance to make the statements.

Do you think that we can mediate this opinion before this committee, this dispute before this Commerce Committee?

Mr. WOLFE. No, sir; I do not think it can be mediated here.

Mr. PICKLE. I share that opinion. I don't think anybody on the committee wanted this political football tossed to us. I am sure all of us would rather not be involved. But we have no alternative, since this particular resolution was introduced, but to consider it.

It seems to me like we are subject to the most intensive opinions and backgrounds. I don't think we will ever be able to actually mediate a dispute of this kind before the committee. However, I was particularly impressed with the line of questioning of the gentleman from Illinois, Mr. Springer, because I think it helped establish the facts.

But we are not going to mediate this thing. We have spent 2 weeks and we can spend another 4 weeks. We can end up using as much time as the Mediation Board and we will never have a decision on it.

I asked that question for a number of reasons. It was my opinion when I introduced my measure that the time has come when we have to find a better answer. The chairman, himself, said that we have reached the point where perhaps collective bargaining has broken down in this dispute and real collective bargaining was not being followed under the present trend of the dispute.

I think that perhaps is correct and we all share that view. If that is so, then we must amend or we must find some other answer to our present procedure. That is why I have introduced this legislation, without respect to the parties involved, but with respect to what I think will be an improvement.

I hope it will be received in that light, and that I will have a chance to testify whenever time is permitted for other measures to be considered other than this particular resolution.

The only thing before us now is that we either have to see a strike take place or we are going to have seizure by the Government, if the Government has the power.

We have limited our discussion to this particular ad hoc resolution. I would think that the questioning would be along those lines and not with respect to a lot of rabbit chasing.

I hate to refer to the rabbits because the gentleman from Washington has already talked about rabbits and foxes. I think he asked that of a gentleman who is named "Wolfe."

I would like, Mr. Chairman, to have 2 additional minutes.

Mr. MACDONALD. I object.

The CHAIRMAN. Objection is heard.

Mr. Brown?

Mr. BROWN. I would like to have the legal opinions from your staff as to any arrangement by which the railroads can be operated.

In the testimony you gave yesterday, you suggested that the employers are taking more of a gamble in a strike and have more to lose in a strike than the employees. Can you elaborate on that just a little for me, please?

Mr. WOLFE. Yes, sir; I shall try to, Congressman Brown.

In the first place, it is going to cost us, as an out-of-pocket cost, $12 million a day.

In the second place, we have no income.

In the third place, whenever there is an interruption of traffic, there is a diversion of traffic to other agencies of transportation. We are now in a highly competitive field. It is no longer a monopoly as it was 50 years ago.

Mr. BROWN. You are suggesting a permanent loss of traffic?

Mr. WOLFE. Yes, sir; I am.

Mr. BROWN. Doesn't that directly, however, also affect the employees?

Mr. WOLFE. Yes, sir; it will definitely affect the employees.

Mr. BROWN. Are there other factors?

Mr. WOLFE. There is this factor: that if this proposal of the President comes on, then we firmly believe that our operating expenses will be increased because there isn't any question but what there will be wage increases.

Mr. BROWN. That goes to the next question I would like to ask. Relative to the $12 million which the strike would cost you, what would settlement on terms that represent the last union offer cost you?

Mr. WOLFE. I gave this to Congressman Springer earlier. As I explained at the time, it was strictly an estimate on my part, but I believe it will be fairly accurate. It would be roughly $130 million a year beginning January 1, 1968; roughly $70 million a year during the year of 1967. Of course, it would be retroactive to January 1, 1967.

Congressman Springer did not ask me this question, but I believe your question is broad enough to cover it: It also would mean, in my opinion, that all the unions with which we have made agreements will immediately move on a catch-up program, and how much that would cost is impossible to estimate at this time.

Mr. BROWN. Would you estimate that it would cost more than $12 million a day?

Mr. WOLFE. For all the employees?

Mr. BROWN. For all the factors you mentioned.

Mr. WOLFE. Yes; if there is a catch up it would cost more than $12 million a day.

Mr. BROWN. Can you give me an order of priority in terms of the railroad viewpoint as between the three possible—I hate to call them solutions—the three possible alternatives in this problem, House Joint Resolution 559, seizure, and a strike, from the railroad viewpoint?

Mr. WOLFE. Yes, sir; I can do that very readily. I am going to do this, if I may, in the order of the alternatives as you mentioned them.

Number 1 is the proposal of the President. We believe that that is the best solution. I concur in what has been said about that bill by Secretary of Labor Wirtz, that it is not compulsory arbitration in the sense that that phrase is generally used.

Mr. BROWN. And the second choice?

Mr. WOLFE. Seizure in our opinion doesn't settle anything.

The dispute remains before us. In my opinion, it punishes the innocent. I think the record before this committee shows conclusively that the railroads have bargained in good faith. I think the President, in his message to the Congress, where he indicated that seizure was not proper in light of the situation here, that that statement was made made on the basis of his knowledge of the negotiating background in this case, where the carriers, without any question at all, have bargained in good faith.

As to the last——

Mr. BROWN. Does that make seizure your second choice, Mr. Wolfe?

Mr. WOLFE. No; I wouldn't take seizure under any circumstances.

Mr. BROWN. And the third choice?

Mr. WOLFE. The third choice is a strike, if I understand you.

Mr. BROWN. My question is what would be your priorities? As I understand it, your first preference is House Joint Resolution 559. Your second preference would be seizure or strike?

Mr. WOLFE. Mr. Brown, that is like saying "Do you want to die from measles or smallpox"?

Mr. BROWN. It is precisely the problem which this committee has, and we don't want any of these three alternatives, I don't think. But we are faced immediately with all three alternatives. My question is—I know what your first choice is—Is there any opportunity for you to give me your second choice? My time is fleeting, too, so if you can indicate an answer, fine. If not, we will go on.

Mr. WOLFE. I am not going to use the word "choice" because if I had my choice, I certainly wouldn't take either, and I have no preference on one between the other.

Mr. BROWN. Thank you.

You indicated in your testimony that you would favor a permanent solution to the situation which has brought us to this particular impasse. Do you have any indications of the direction that permanent solution might go; that is, in terms of permanent labor legislation that might speak to the problem in such an industry?

Mr. WOLFE. I think the Herlong bill would be good. I think it would solve our problem and it would inspire more sincere and effective collective bargaining. I think the bill introduced by Congressman

Pickle is a sound bill and ought to be given very profound consideration.

But I also think, and perhaps I think this more strongly than anything else, that if Congress decides that something should be done, then I think the Congress should enter into this with the idea that the equities of all interested parties will be preserved, but these entirely too frequent crises should be avoided and something should be worked out that will be an effective remedy.

Mr. BROWN. Do you see any "daylight" in the possibility of Federal legislation which would eliminate the nationwide nature of this problem?

Mr. WOLFE. That has been discussed by a great many people, but I honestly believe that it would do more damage than good. I make that statement for this reason: The unions would be severely handicapped if they had to handle, in particular, their wage movements with each carrier.

Keep in mind there are over 200 railroads in this industry. If a union sought to secure a wage increase and they had to go from railroad to railroad, by the time they finished with the 200 railroads most of the beneficiaries would be retired before they got it. It would put a terrible handicap on the unions.

Also, wages for most of our employees are pretty much standardized. You have the problems of ability to pay and many other things. I really do not think that it would improve collective bargaining. Instead, I think it would bring about a deterioration of collective bargaining. I just cannot believe that the unions would support that.

Mr. BROWN. I might say I am not sure that House Joint Resolution 559 will improve collective bargaining either.

The CHAIRMAN. Mr. Satterfield.

Mr. SATTERFIELD. Thank you, Mr. Chairman.

Mr. Wolfe, you have been questioned at some length about specific issues in this dispute. I don't doubt but what there will be additional testimony in this area by future witnesses. That brings to mind a point I would like to pursue.

In answer to a question by the gentleman from Illinois, you stated this morning there were two general areas of dispute, one being the amount of money involved and the duration, and you stated the third being the adjustment of inequities.

Are you talking here about—and I base this on a statement made yesterday that you recognize that there are inequities that ought to be corrected—the question of job evaluation? Is this where the dispute lies in this area?

Mr. WOLFE. It does to a great extent, Mr. Satterfield. The Emergency Board, that is Emergency Board No. 169—and by the way, the previous Emergency Board found the same situation and reached the same conclusion—found a comparison of rates, basic rates, must be accompanied by a comparison of skill requirements, and that can only be accomplished by a job evaluation study.

Mr. SATTERFIELD. Is the question of a job evaluation study in dispute?

Mr. WOLFE. Yes, sir.

Mr. SATTERFIELD. It is also a question in dispute as to who is to conduct such a study?

Mr. WOLFE. The Emergency Board recommendations contemplated that if the parties could not agree on the procedures to be adopted in connection with the job evaluation study, they would be assisted by the Department of Labor.

If an agreement as to procedures could not be reached, that would be arbitrated.

Mr. SATTERFIELD. In your estimation, is the question of disagreement as to amount tied up irrevocably with the question of job classification?

Mr. WOLFE. Certainly if we proceed in an attempt to rationalize this disturbed situation, a job evaluation study is absolutely essential.

Mr. SATTERFIELD. As far as you are concerned, would this not resolve the question so far as amount is concerned?

Mr. WOLFE. Yes, it would, and we would accept it. I think the most appealing factor there involved is that it would bring about a permanent remedy of any alleged inequities, and not a piecemeal proposition which will arise from time to time and continue to harass both of us.

Mr. SATTERFIELD. So the job evaluation is a very critical situation as far as you are concerned.

Mr. WOLFE. Yes.

Mr. PICKLE. Will the gentleman yield?

Mr. SATTERFIELD. Yes, I yield.

Mr. PICKLE. I didn't get to ask you a couple of questions I wanted to ask you a while ago. and which I also want to ask the witnesses who will follow you.

In the consideration of any new legislation, what is your feeling if provision was made by law that the parties dealing in the dispute, in the mediation or on the Emergency Board, the parties, the railroads, and the union, would have plenary authority, that is, authority to actually speak for their group and not have to go back to either the railroad management or to the unions for an answer? If they could reach an agreement, that would be binding.

Mr. WOLFE. I do not believe, especially in the railroad industry, that good-faith collective bargaining can be successfully carried out unless the parties who are actually negotiating have the definite authority to find their principals. We have that authority through power of attorney. If a railroad or a group of railroads feel that we have gone too far, that is just too bad. They are bound when we make an agreement.

Mr. PICKLE. Your answer is that you would think that would help in significant mediation if both parties had plenary authority?

Mr. WOLFE. Yes, sir.

Mr. PICKLE. My next question is: If sometimes they really don't do serious bargaining until they get into an Emergency Board or a Special Board, what would be your feeling if any law we might establish said that the Emergency Board or a Special Board would, in their decision, choose either A or B, they would choose either the railroads' position or they would choose the union position?

Sometimes the parties are poles apart with no real effort, I assume, to get together. What would be your feeling that if you reached a point where the decision was tossed into an Emergency Board? Would you think it would be wise that they get to choose one or the other, but not both?

Mr. WOLFE. That subject was discussed just recently before a Committe of Nine representing the American Bar Association. I was there. I spoke for the railroads. It is a very interesting subject.

The discussion we had may have been a little bit different from your question. It involved compulsion; that is, if you had an Emergency Board with final and binding authority, and before it would be submitted the last proposition of the carrier and the last proposition of the union or unions, and the Emergency Board would be limited to selecting one or the other——

Mr. PICKLE. Pardon the interruption. This pertains to possible future legislation. I am mindful of the other members' time. Would you submit your proposition on that for the record?

Mr. WOLFE. I will be glad to, yes.

(The material requested was not available at time of printing.)

The CHAIRMAN. Mr. Adams?

Mr. ADAMS. Mr. Wolfe, I hope you do understand that the positions that many of us take here do not represent a particular dislike of either party but a dislike of our particular position. We do want to talk about the specific legislation.

The specific thing that continues to bother me about it, and Mr. Kornegay brought this out very well—and it has been brought out several other times—is that the parties have frozen, and the chairman has pointed out there has been very little actual face-to-face bargaining.

It seems to many of us that it is a fact that the parties are not bargaining or will not bargain and, therefore, we are looking for the solution. When we talk about seizure, we are not talking about seizure alone. I want to ask your opinion about this:

Suppose we combine all of the factors which have been discussed here, which are a board that will set down a specific set of findings or a decision—you can call it compulsory arbitration—and we continue to hold the union by injunction, and that we hold management during the same time by a form of seizure which, in effect, puts their profits and so on in escrow and prevents the giving of bonuses and the other things, continuing to operate as usual—that we put all of these factors together.

When you have testified about the fact that in a strike situation you have a $12 million a day loss, I think you know, and I think this affects the bargaining, we are not going to be able to let a strike occur, according to the Secretary of Transportation, the Secretary of Defense, the Secretary of Labor, the President, and everybody else.

I would like to know where you think, if we don't put in in addition to the compulsory arbitration feature which we have in House Joint Resolution 559, and the injunction which we have in House Joint Resolution 559, some pressure on the railroad, why there is any pressure on you to change your position and bargain?

Mr. WOLFE. Is that a question?

Mr. ADAMS. It is.

Mr. WOLFE. It is not a question?

Mr. ADAMS. It is a question. What are we doing in this legislation, in House Joint Resolution 559, that is going to do what we want to do, in other words, to dynamite the parties out of their frozen position, what pressure is there at all on management to bargain?

Mr. WOLFE. There is the pressure that always confronts people who have the responsibility of making agreements. Now, regardless——

Mr. ADAMS. Just a moment before you go any further.

In the normal bargaining situation, you have the parties faced with the ultimate in economic weapons. In other words, the pressure that is upon the railroads is "We don't want to have a strike."

The pressure that is on the men is, "We have to bargain in here and they may either lock us out or they can hold out on us as long as they can. We have this ultimate factor and, therefore, we have to bargain."

In this situation, we are holding the union by injunction. We are not going to let them strike. We are attempting to set up some kind of an award. You are on the record, and I know you don't deny it, that the railroad industry wants and likes to have compulsory arbitration awards. If we don't come down with something that is hostile to your position, you are in the best of possible worlds. Why should you bargain?

Mr. WOLFE. We are not in the best of possible worlds at all. Nothing could be further from the fact.

Mr. ADAMS. Tell me what would make you bargain if we do this.

Mr. WOLFE. Any time the unions demand something and we fail to make an agreement, and we risk permitting that issue to go before someone else, then we are taking the most desperate kind of a gamble. We have no idea just what the result will be.

Mr. ADAMS. You do in this case, do you not?

Mr. WOLFE. I beg your pardon?

Mr. ADAMS. You do in this case. You know what the result is going to be because you have been told by the Emergency Board, by the Special Panel, and House Joint Resolution 559 says that you shall build on that.

Mr. WOLFE. No, that isn't what it says at all. It says it may be modified. That doesn't necessarily mean you are going to build on it.

Mr. ADAMS. In other words, you are telling me that the chance of some modification from the compulsory arbitration or the compulsory statement that has been made is enough pressure on you to move you into a bargaining position when you have already explained to me when you were here before that you have reached a fixed position and although there may be some question about it, you are not going anyplace from that fixed position?

Mr. WOLFE. I don't say that at all. I don't think anyone else has a right to say it. You can guess that. You may dream it up. But there is nothing to support your guess.

Mr. ADAMS. Well, there is this to support it. First is the position the railroads have taken with Public Law 88–108, which was to freeze the award beyond the 2-year period. That is the first thing that supports my guess, or call it whatever you want.

The second thing is the history of the bargaining at this point, as has been brought out by the chairman and by several other members, that the Emergency Board said there was no bargaining until they met. You may disagree with that, but it supports my position.

Third, we are here today because the parties cannot reach the final point. The facts as brought out by Mr. Springer indicate that you are quite close together. What we are trying to determine as a committee

is with this legislation, what we will have to do to make both parties bargain.

We are ready to do it to the unions, to enjoin them, and maybe we are ready to go with an award system in this temporary legislation which they don't like.

All I am asking you is, and you have answered it, whether you think the fact that the award may be modified is enough pressure on you to make you collectively bargain.

Mr. WOLFE. Yes, I do.

The CHAIRMAN. Mr. Nelsen, Mr. Watson wanted to ask a question. Will you yield to him?

Mr. NELSEN. I will yield.

Mr. WATSON. I passed on the first time around. May I ask two or three questions?

Mr. NELSEN. On your time, yes.

Mr. WATSON. Yes, on my time.

I am sure, Mr. Wolfe, all of us are disturbed about the absence of apparently any mediation efforts at this time, so I am going to restrict my questioning to that.

As I recall, you made definite progress with the help of the Mediation Board in narrowing the issues in dispute.

Mr. WOLFE. I think the real progress——

Mr. WATSON. Did you or did you not make progress under the Mediation Board?

Mr. WOLFE. I think we made some progress.

Mr. WATSON. Some progress in narrowing the issues?

Mr. WOLFE. Well, the real progress, Mr. Watson, was made before the Emergency Board, when the Emergency Board rejected a great many proposals, and I think that most of those have been more or less abandoned with the dispute in its present posture.

Mr. WATSON. And I believe further you said you were successful in narrowing the issues in dispute with the special board, the Fahy Panel.

Mr. WOLFE. To this extent: The special panel, the Fahy Panel, recommended a 6-percent across-the-board increase for 18 months and we accepted it.

Mr. WATSON. Did I understand you earlier to say that in the absence of any third party help at this time, you believe it would be fruitless or meaningless for the parties to get together at this time?

Mr. WOLFE. Yes. I base that not only upon my own knowledge of the case, but also the statements made by Secretary of Labor Wirtz before this committee, and others.

Mr. WATSON. Through the efforts of the parties, plus the third party interest, these Boards, you have been successful in narrowing the issues.

Now we are at the point where apparently no effort is being made by either party to the dispute to mediate. You have not had any vis-a-vis contact since April 25, I believe.

Mr. WOLFE. That is correct.

Mr. WATSON. Believing that you do not want compulsory arbitration, even of a temporary nature, and we know from the expression of organized labor that they do not want it, I am sure from the questions that the committee members have asked that they do not want it unless it is absolutely necessary, do you believe it would be helpful at this point for us to give both parties a last chance to prove whether

or not they really believe in collective bargaining, that is, if this committee could come up with a special mediation committee or board composed, let us say, of the Secretary of Labor, Transportation, or Defense, plus a representative from management and one from labor, to give you an opportunity to negotiate with them between now and the end of this 27-day extension?

Do you believe that would be helpful?

Secondly, do you think you would agree to do that if the committee could get together on that recommendation?

Mr. WOLFE. If the committee would instruct us to do something, certainly we would give such instruction profound consideration. But I want you to keep this in mind: that there are six unions involved. My experience is that no one person is going to speak for all six unions.

Mr. WATSON. You agreed earlier in supporting House Joint Resolution 559 to the very same thing that you apparently now are criticizing. Under the provision of this resolution, you would have five appointees, one of whom would be from organized labor and one from management. You supported that.

Mr. WOLFE. Not necessarily.

Mr. WATSON. They are all recognized as public members, at least the President stated that in his message.

Mr. WOLFE. I understand, and I hope I am not wrong that the representatives of the parties will continue to represent their principals before that panel, even to the extent of having hearings, if that is necessary.

Mr. WATSON. So far as my recommendation is concerned, the unions would still have their representatives, but there would be nothing wrong with their having a consensus and one spokesman. If you get too many people involved, you will get lost in insignificant or trivial things.

But you don't believe such a suggestion as that might be helpful in bringing you closer together?

Mr. WOLFE. I doubt it at this moment.

Mr. WATSON. But you would be agreeable to enter into it in good faith?

Mr. WOLFE. I will do anything within reason to try to help resolve this thing, whatever it is, if it is reasonable and fair.

Mr. WATSON. Mr. Chairman, would it be inappropriate at this time to ask the spokesman of organized labor as to whether or not they will agree to this?

The CHAIRMAN. They will be before us, I believe, tomorrow.

Mr. Blanton?

Mr. BLANTON. I have no questions.

The CHAIRMAN. Mr. Nelsen?

Mr. NELSEN. Thank you, Mr. Chairman.

In this dispute have there been any recommendations from higher levels as to a degree of settlement? I recall that in the airline strike we were told repeatedly that certain recommendations had been handed down from high places. In my judgment, this did imply there was some interference.

Has there been any interference from top-level people in your dispute?

Mr. WOLFE. No, sir. To the best of my knowledge there has been no interference.

Mr. NELSEN. Mr. Springer mentioned that labor and management were close together in this dispute. I want to be sure I understand the President's proposal.

It is my understanding that after these Panels are set up in a specified number of days there would be hearings where both sides will be heard. Isn't it true that the Panel might very likely come up with a recommendation that the railroads abide by the request of labor? This is a chance you take, do you not?

Mr. WOLFE. Yes, sir.

Mr. NELSEN. If the Panel were to say that you must abide by the request of the unions, you would have to do it, take this commendation for a period of 2 years; is that right?

Mr. WOLFE. That is correct.

Mr. NELSEN. So you have reason to fear what might happen by going through this Panel, do you not?

Mr. WOLFE. We have very grave reason for apprehension.

Mr. NELSEN. The machinists from my State indicated to me that their level of pay was far below the level of pay in other competing industries within our State. In your job evaluation process, has that been taken into account, the various crafts within organized labor, so that there is some adjustment in those cases?

Mr. WOLFE. Yes. We have given that very careful consideration, Mr. Nelsen, and so did the Emergency Board. If there is a job evaluation study, which I firmly believe is the only permanent remedy, you can rest assured whatever the result is, if it discloses that certain of our mechanics are underpaid, and a recommendation is made that the rates be increased to a certain level, the carriers will accept it.

Mr. NELSEN. Mr. Chairman, may I yield my further time to Mr. Brown?

Mr. BROWN. I will be happy to yield to Mr. Springer, since I think I know what the point is.

Mr. SPRINGER. I thank both of the gentlemen for yielding to me on this point.

I was under the impression, after listening to the Secretary of Labor the other day, that these people were quite close together, 3 cents. According to the testimony given by Mr. Wolfe as of this morning, they are indeed far apart. The difference between the first year of $30 million to $70 million, and for the second year between $60 million and $130 million.

There is the difference between an offer of 5 percent for 1 year and escrow for the inequities, and an offer on the other part, as I understand it, of 6½ percent the first year and 12½ cents, the second year 5 percent and 12½ cents.

We can certainly ask the brotherhood when they come tomorrow, but it is approximately 5 percent on one side and the inequity, and 19 cents. Am I correct?

Mr. WOLFE. You certainly are.

Mr. SPRINGER. I want to ask them if this is their position, relatively, compared to what Mr. Wolfe said today.

Apparently the Secretary of Labor either misunderstood the statement at the White House or he misunderstood the other day here in testifying. I would guess they are 14 or 15 cents apart, if Mr. Wolfe's testimony can be accepted as true.

Maybe we will come up with a different opinion tomorrow. But these parties are not even beginning to get close. There is a variation be-

tween Mr. Wolfe's testimony and the Secretary's. I think it might be wise for the Secretary to come back and give his opinion on this.

Thank you.

Mr. BROWN. I have two questions. I am certain Mr. Pickle will be proud of me on the first one, because it relates only to House Joint Resolution 559 and the Board proposed in the resolution.

Are you satisfied Mr. Wolfe, with the five-member Special Board as constituted or designed to be constituted under this recommendation, an entirely public board, as I understand it, one of whom has a background in railway management and another of whom has background in railway labor?

Mr. WOLFE. If I were certain that that is what it means, I wouldn't be quite as worried as I am. The bill, as I understand, simply says there will be one member with a management background and one member with a union background. It does not specifically state the management man will be with a railroad background, nor does it specifically state that the other member will be with a union background in these particular unions.

Mr. BROWN. Do you think it would be helpful to have House Joint Resolution 559 changed to that extent?

Mr. WOLFE. Yes. I think the man with the management background could be more helpful to the panel if he knew what he was talking about.

Mr. BROWN. Would you prefer three public members and one from railroad management and one from railway labor?

Mr. WOLFE. Yes; I would. I think these shopcraft unions have a perfect right to be represented, to know what is going on.

Mr. BROWN. The other question I have is on the figure of 74 percent of the employees having settled. That figure has been used in these hearings thus far.

Is that precisely accurate? Am I correct in the assumption that there are 24 unions involved here?

Mr. WOLFE. Yes, sir.

Mr. BROWN. With how many of those unions has management settled?

Mr. WOLFE. We made definite contracts with 13 unions. We are making agreements with some of the smaller unions on an individual railroad basis.

Mr. BROWN. How many? You are still negotiating, I gather?

Mr. WOLFE. We do not conduct the negotiations for certain unions. For example, the supervisors, the yardmasters—well, yardmasters will be on a national basis—the chair car porters, the patrolmen have a separate union. They are making agreements all over the industry and are accepting the pattern.

Mr. BROWN. How many unions are still in process? How many unions are involved in your inprocess negotiations to settle this matter?

Mr. WOLFE. Four.

Mr. BROWN. So that leaves how many unions——

Mr. WOLFE. And here are six. That makes 23.

Mr. BROWN. We left somebody out.

Mr. WOLFE. There is one little union that we haven't dealt with yet, but we will.

Mr. BROWN. One with which you have not dealt, and six?

Mr. WOLFE. The six involved here.

Mr. BROWN. The six shopcraft unions involved in this?

Mr. WOLFE. Yes.

Mr. BROWN. Thank you, Mr. Chairman.

The CHAIRMAN. A brief question from Mr. Macdonald.

Mr. MACDONALD. Actually, it isn't a question, Mr. Chairman. I would just like to clear the record. I would like the record to have it show that I wasn't able to get the floor before now to answer the Member from Texas who said that the integrity of the Secretary of Defense and Secretary of Transportation were impugned by some of the members. Since I quoted from an article written by Frank C. Porter in this morning's press, I was quoting him, and the quotes that came from that article in no way, in my judgment, impugn anybody's intention, character or ability.

Certainly I would not want the record to be silent on that point.

I would like to point out, however, that what was said about the Secretary of Transportation talking like the Railroad Association appears in the article. That article states that, "Mr. Boyd said that the proposal by the union would only result in chaos."

In the next line, it says that "Allen J. Greenough, president of the Pennsylvania Railroad, said 'Such a program would prove completely chaotic.'"

So if there is anybody from the Department of Transportation here, he can report that this member did not impugn the motives of the Secretary of Transportation. I merely pointed out the similarity of language used by the president of a very large railroad about this proposal and his own language.

The Secretary of Defense was never mentioned. The person mentioned as attending was Deputy Secretary Cyrus Vance. All I know about him is that he has asked to resign. He voluntarily requested to resign.

I would like to make it clear, and I hope the gentleman from Texas reads the record, that if the gentleman from Texas thought that this member was impugning anybody, he should be more attentive to the words spoken.

With that, I would like to congratulate Mr. Wolfe, with whom I have worked closely on many occasions, for a fine presentation.

The CHAIRMAN. This concludes today's hearings.

Mr. Wolfe, this concludes our session with you.

I would like to say on behalf of the committee, we want to thank you, Mr. Wolfe, for coming and giving us the benefit of the views of your members in your organization. I think you have made a good witness.

Tomorrow we will have some representatives of the Railway Labor Executives Association with us.

Mr. WOLFE. May I thank you, Mr. Chairman and the members of your committee.

The CHAIRMAN. You have been very patient.

The committee will now adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 12:10 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, May 18, 1967.)

RAILROAD LABOR DISPUTE

THURSDAY, MAY 18, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order, please.

We will resume our hearings on House Joint Resolution 559.

We have for the first witness this morning Mr. George E. Leighty, chairman, Railway Labor Executives' Association. Accompanying him is Mr. Lester P. Schoene, counsel, Railway Labor Executives' Association.

I notice that your statement is a lengthy one, Mr. Leighty. Is it possible to summarize it for the record?

STATEMENT OF GEORGE E. LEIGHTY, CHAIRMAN, RAILWAY LABOR EXECUTIVES' ASSOCIATION; ACCOMPANIED BY LESTER P. SCHOENE, GENERAL COUNSEL; AND MICHAEL MARSH, DIRECTOR OF RESEARCH

Mr. LEIGHTY. I would say that the items are very important. We have briefed them as much as we could. I would prefer to read the statement.

The CHAIRMAN. Very well, sir. You may proceed.

Mr. LEIGHTY. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is George E. Leighty, and I am chairman of the Railway Labor Executives' Association, with headquarters at 400 First Street NW., Washington, D.C. This association speaks for 23 standard railway labor organizations representing nearly all the Nation's railroad employees.

Seated with me is Mr. Lester P. Schoene, the RLEA's general counsel, who will also testify as a witness. On my other side is Mr. Michael Marsh, director of research of the RLEA.

In addition to my post with the RLEA, I am president of one of the railway labor unions, the Transportation-Communication Employees Union. Since 1946, I have served as chairman of the national negotiating committee of the cooperating nonoperating railway unions.

My experience in the railroad industry goes gack about 50 years, and I believe I know this industry as well as any man, not only from the standpoint of its labor relations, but from the standpoint of its operating practices.

I appear before you to voice the railway labor movement's determined opposition to House Joint Resolution 559 and to any other measure that would fasten a regime of forced labor—whether you call it finality or compulsory arbitration, or whatever—on the private employees of privately owned corporations.

Who profits by this bill, if enacted? The Nation's railroad corporations profit, whose earnings will be increased by paying lower wages than their shopcraft employees could win by exerting their own economic strength.

Who loses by this bill, if enacted? The underpaid railroad shopmen lose, by losing their democratic right to strike and the wages it could bring them.

This bill rewards the corporations and punishes the workingman. We find that grossly unfair. Moreover, the compulsory arbitration in this bill, coming on top of the compulsory arbitration Congress enacted in 1963, threatens to kill whatever life now remains in national collective bargaining in the railroad industry. Lastly, House Joint Resolution 559 is not only a biased bill; we believe it is also an unnecessary bill.

I should like to raise with you four principal questions:

First, if the railroad shopmen strike, need it be a national emergency?

Second, isn't there a better legislative approach than compulsory arbitration?

Third, who supports and who opposes antistrike legislation like House Joint Resolution 559?

Fourth, what is the broad background of labor-management relations in the railroad industry, against which one should judge the impact of restrictive legislation?

My first question is perhaps the most important of all. Every one of us is aware that nearly 500,000 young Americans are now fighting in the jungles and mountains of Vietnam. Many of them are the sons of railroaders. Not a single person in the railway labor movement wants to injure these, our sons, so far away.

With that in mind, Mr. Michael Fox, on behalf of the railroad shopcraft unions, and I, on behalf of the RLEA, sent a telegram to the Secretary of Defense, Mr. McNamara, on April 28, 1967, reading as follows:

> In view of scheduled national strike by railroad shopcraft unions at 12:01 a.m., May 3, we stand ready to meet with you at any time to arrange for continued rail transport of all shipments necessary to our Nation's military effort and the public health. This offer is made on behalf of shopcraft unions and other railroad unions. Cooperation on part of railroad managements would also be needed.

On May 2 we received a reply from one of Mr. McNamara's associates, Mr. V. F. Caputo, Director for Transportation and Warehousing Policy in the Office of the Assistant Secretary of Defense. He wrote:

> This is to convey our appreciation for the assurance given in your message of April 28, 1967, to the Secretary of Defense, regarding shipments of materiel required to support our Nation's military effort.
>
> In view of the fact that the deadline for the scheduled national strike by railroad shopcraft unions has been extended to June 19, 1967, it would appear that a meeting as you proposed is not now necessary. We will continue, however, to

follow closely developments in this matter, and should they indicate the desirability of a meeting in the future, we will be in contact with you.

It is our hope that there may be an early resolution of the issues between the shopcraft unions and the railroads, and that there will be no interruption of railroad service.

That was the reply from Mr. Caputo. On the morning of May 10, Mr. Fox and I sent a second telegram to Secretary McNamara as follows:

We received a reply from your associate, Mr. V. F. Caputo, to our telegram to you of April 28 offering to meet with you to work out plans for moving all rail shipments essential to the Nation's military effort and the public health in event of a national railroad strike by the shopcraft unions.

Your associate said we would be notified if and when such a consultation became desirable. We respectfully suggest that the proper time is now. We suggest that you designate a responsible and knowledgeable official of your Department to meet with a committee from the railway labor unions and a committee of practical railroad men from the management side to draw up a program for implementing our offer of April 28.

We further suggest that a senior member of the Senate Labor Committee and the House Interstate Commerce Committee be invited to sit with this planning group. The planning group could begin meeting on Monday, May 15, and continue meeting daily until the question is resolved, whereupon a report can be made to the appropriate committees of Congress. Congress will then be better able to judge whether it is truly necessary to deprive the railroad shopmen of their democratic right to strike.

Gentlemen, I want to tell you about the meeting at the Pentagon last Tuesday which resulted from this telegram—and from your own interest in our partial-operation proposal. Before doing so, however, I should like to recall a bit of history.

Back in 1959 we had discussions of a somewhat similar nature with the Pentagon—and when I say "we" I mean in this case both railway labor and management. That was when the Air Force was considering the idea of putting Minuteman missiles on special trains that would keep moving around the country to avoid offering a stationary target for enemy missiles.

The press reported that the plan was for 150 of these special trains. The military people naturally wondered what might happen to these missile trains in event of a railroad strike.

I might interpose here to say that at that time the contracts of practically all of the railway labor organizations were open and we were in negotiations. Naturally, the Air Force wanted to know what they could count on.

So, at their invitation, Mr. Daniel Loomis, as president of the Association of American Railroads, and I, as chairman of the RLEA, went to the Pentagon to talk with them. The results are indicated in a letter of October 23, 1959 to Mr. Loomis and me from Col. Earl C. Hedlund, Director of Transportation, Office of the Deputy Chief of Staff for Materiel, Headquarters, U.S. Air Force, reading as follows:

"In furtherance of recent exchanges of views between representatives of your organizations, Military Traffic Management Agency and the Air Force with respect to the ability of the railroad industry to provide positive, uninterrupted service in support of Air Force Minuteman missile program when and if activated, it is suggested that an understanding along the following lines might be appropriate.

"Both railroad management and railroad labor unite in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force,

in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

It should be fully understood that the Air Force must be assured of timely and positive operation of this weapon system under all circumstances other than those attributable to acts of God.

In the event that your organization might wish further information with respect to our Minuteman missile program, we would be happy to arrange such a presentation at the appropriate time.

Your response to the above proposal is requested so that the Air Force may proceed in its assessment of the feasibility of utilizing the Nation's railroads as an integral part of a weapon system.

That was Colonel Hedlund's letter. Mr. Loomis replied on November 4, 1959, confirming the assurance requested, on behalf of the board of directors of the AAR, for the member railroads of the AAR, which represents 95 percent of railroad mileage.

I replied on November 10, 1959, after obtaining the unanimous approval of all members of the RLEA, confirming the assurance on our part. I pointed out also in my letter to Colonel Hedlund that:

Mr. Loomis had stated on behalf of railroad managements that if the assurances you sought from railway labor were given, the managements would not, in the event of a strike, use service to the Government as a means of impairing the effectiveness of a strike; that if missile train operations and other services in connection therewith were required, employees who would normally perform such services would be used under joint management-union arrangements and the services thus made available to the Government would not be utilized by management in efforts to handle other traffic.

Mr. Chairman, I ask your consent that the text of this exchange of correspondence be printed in full in your hearing record at the close of my statement.

The CHAIRMAN. Without objection, that will be done.

(See pp. 231–233.)

Mr. LEIGHTY. Now, to keep moving 150 missile trains daily during a strike is by no means a minor operation. The missile trains, running 24 hours a day at an average 40 miles an hour, would accumulate 144,000 train-miles a day. Total freight train-miles of all class I railroads in the year 1965 averaged 1,145,000 a day.

The proposed missile train operation would require most of the basic underpinnings of railroad service—for example, signals, control towers, dispatching, communications, inspection and emergency repair of ways and structures, servicing of locomotives and cars, and inspection and emergency repair of locomotives and cars.

This was the undertaking that railway labor and railway management gave to the Pentagon as to the proposed missile trains in event of a strike. There were at that time no protests or claims of "It can't be done."

I might add one word about the missile train project: If I recall the newspaper accounts correctly, the Pentagon later shifted its interest to Polaris submarines rather than missile trains as mobile launching platforms for long-distance missiles. However, that does not lessen the significance of our 1959 agreement.

I would like to recall an old saying: If you wish peace, prepare for war. The analogy in this present dispute might be phrased: If you wish a settlement, prepare for a strike. I subscribe fully to what Mr.

Michael Fox, speaking for the shopcraft unions, told the Senate Labor Committee when he said:

> If the Congress will only make plain to the railroads that their employees still have the fundamental democratic right to strike . . . then the railroad negotiators will finally, at long last, come and bargain seriously with us, and we shall soon settle this dispute fairly and no railroad strike will take place.

Unfortunately, up to recently, I don't believe anyone in railroad management has had the slightest thought that Congress would let a national railroad strike take place. They know very well what Congress has done in the past against threatened national railroad strikes and they further know that the Nation is now at war. That is why the railroads have dug in their heels and refused to negotiate seriously, as Mr. Fox will undoubtedly explain to you next week.

The railroads expect Congress to bail them out, to pass a law taking away the railroad men's right to strike. If this administration, and you in Congress, want the shopmen's dispute settled through collective bargaining, the most powerful step in that direction would be to create the planning group we proposed and work out the specifics of hauling the shipments necessary to our Nation's military effort and the public health. That would persuade the railroads for the first time that a national railroad strike is a definite possibility. Believe me, gentlemen, if they once got persuaded of that, they would come in and negotiate a settlement of this dispute within 48 hours.

However, as you know, the railroad management spokesmen have denounced our proposal to move essential shipments in event of a strike in the most extreme terms. I suspect part of the reason why they are so dead set against this proposal may lie in the statement made by Mr. J. E. Wolfe to the Senate Labor Subcommittee:

"It would bankrupt the whole railroad industry, completely bankrupt it," Mr. Wolfe declared. As to the truth of that assertion, I have no way of knowing; but I do not doubt that the railroads believe it. However, I would point out that a complete strike, instead of a partial strike, would also cause the railroads very heavy losses. In fact, the whole point of calling a strike is to face the employers with the possibility of heavy losses, and thereby encourage them to bargain the dispute to a fair settlement without a strike.

To our great regret, and despite our telegrams of April 28 and May 10 asking for conferences and discussion of our essential-shipments proposal, various high officials of the administration appear to have decided that our proposal is not feasible. They appear to have so decided even before talking with us, even before they knew specifically what we had in mind.

You are all familiar with the way the Secretary of Labor and the Secretary of Transportation answered your questions on this topic last week. You are also familiar with the letter sent to Chairman Staggers last week on the same subject by Mr. Cyrus Vance, Deputy Secretary of Defense. All this took place before any of these officials had even asked us what we had in mind.

I might also recall a statement by Senator Wayne Morse at the Senate hearing last Tuesday morning. As you know, Senator Morse is managing the administration's bill in the Senate, and he indicated he

was speaking for the executive branch when he declared on Tuesday morning:

> Your Government rejects this (partial operation) as an administrative impossibility, and your Government will continue to reject it.

That was the situation when Mr. Fox and I went to the Pentagon last Tuesday afternoon to discuss railway labor's essential-shipments proposal with various high officials, including Secretary Boyd and Deputy Secretary Vance. We had hoped railroad management representatives might also be present, but they were not. We had hoped for a real brass-tacks discussion, but it did not go that way.

Mr. Vance early in the meeting indicated the administration's decision had already been made against our proposal. Various questions were put to us about how our proposal could work in a practical way.

We answered them all, but the officials present didn't seem to be interested in our answers or in exploring the matter further. I suggested to them they were simply telling us it can't be done.

That isn't the slogan of the Marines, I told them. After about three-quarters of an hour the meeting broke up, and Mr. Boyd then stated to the press, according to newspaper accounts, that:

> The suggested operation would create a situation which could only be described as chaos. It would not result in the movement of essential defense or public health commodities on any schedule.

Gentlemen, if you have any questions about the practicalities of our essential-shipments proposal I shall try to answer them after I finish this statement. But I should like to take just a moment now to answer this claim about chaos and no schedules.

Most long-distance railroad freight moves on scheduled trains, just as passenger trains operate on a schedule. Of course, the railroads also run extra freights and their local freights, which pick up and set out cars along the route, do not have regular schedules. But the scheduled trains do represent the backbone of speedy long-distance railroad freight haulage, and the maintenance of such schedules, because of interconnections, is very important to good service.

But there is no reason whatsoever why all present freight train schedules should not be maintained under our partial-strike essential-shipments proposal except for one thing: to keep the schedules, most freight trains would go out with fewer loaded cars than now; and since the trains would require the same crews, the railroads would make less money than on their present trains; therefore, the railroads apparently have in mind canceling their schedules and holding the essential shipments until they could assemble long and profitable trains like they have now.

This is the only reason for the threat of chaos from no schedules—the insistence of the railroads on making a profit during a strike.

On this point I quote from testimony last Monday to the Senate Labor Subcommittee by President W. Thomas Rice of the Atlantic Coast Line Railroad:

> What are the lines . . . to do when there are only just a few cars to move? Of course they would not move them unless it had been decreed by the government that they had to. Look at the expense of operating a 10-car train compared to 150-car train. . . . Who will pay us? We will be bankrupted before long, in my opinion.

Gentlemen, I don't believe any unions anywhere have made a more generous offer than ours to prevent a strike from hurting our fighting-men in Vietnam and the Nation. We made this offer because we don't want a railroad strike to harm the Nation's vital interests in time of war.

We did not make this essential-shipments offer in order to guarantee a profitable operation to the railroad corporations during a strike. Nor, frankly, did we expect the spokesman for America's railroad corporations, who are patriotic men I am sure, to use the kind of moral blackmail they seem to be using against our essential-shipments proposal.

What they are doing is telling the Government they will create chaos by refusing to schedule the trains we have offered to haul, unless the Government orders them to schedule such trains—and if the Government issues such orders, they will then sue the Government for damages.

Mr. J. E. Wolfe made that last point quite clear, under questioning by Senator Morse, and so did Mr. Rice.

Of course, one can understand why the railroads have taken this position. They hope to use this tactic to force Congress to take away completely the railroad shopmen's right to strike and impose on their employees a form of compulsory arbitration. That is the railroad corporations' goal—to force you to ignore our essential-shipments offer and proceed to enact House Joint Resolution 559.

This brings me to my second topic. Suppose you find that the only answer available under the circumstances is to submit to the railroads' pressure and enact a law forbidding the shopcraft strike now set for 12:01 a.m. on June 19. If that does become your feeling, we would urge upon you the seizure approach rather than the compulsory arbitration approach embodied in House Joint Resolution 559.

Compulsory arbitration is utterly one-sided and unfair when forced on the employees of profitmaking companies. It deprives the employees of their only economic weapon to win fair wages and working conditions.

It brings in the Government to force terms on the employees that may well be more favorable to the owners and less favorable to the men than the men could have won for themselves—and prevents the men from ever knowing what they themselves could have won.

It does this while imposing no restriction whatever on the companies' profits—and those profits clearly would be higher if a smaller increase in wages is forced by the Government on the employees.

Compulsory arbitration is the road to serfdom. For the Government to force private employees to labor for less than they could win for themselves, so as to enrich their private employers, is a fascist arrangement. It is not an American arrangement.

I might add that any Government seizure of an industry where the profits gained through forced labor of the employees are then turned over to the private owners, is also open to this same objection. Mr. Schoene will have something more to say on that question.

Once you start on the path of compulsory arbitration for wages and working conditions you are bound to face demands that prices and profits also be controlled, in simple equity. Of course, we had some-

thing like that in World War II and the Korean war. We had wage and price controls and along with them a very heavy excess profits tax.

There was at least some attempt made to impose equality of sacrifice. But none of us considered those controls as representing the American way of life, and they have been avoided so far in the Vietnam war.

It should be noted also that the railroad industry's rates, or prices, are already subject to Federal regulations. But their profits are not. In fact, far from being subject to a heavy excess profits tax, the railroads and the other corporations are currently being handed by Congress a major tax cut on their profits, through restoration of the so-called investment tax credit on an even more favorable basis than before.

We estimate this new basis for the tax credit, involving a ceiling of 50 percent of total income tax liability instead of the former 25-percent ceiling, will mean at least $50 million a year more profits (and less taxes) for the railroad corporations.

That is what Congress is handing them—at the same moment they are demanding that you rob their employees of their basic democratic rights. And lest you think that the railroads are starving for profits, let me remind you that net profits of class I railroads have already risen during this wartime period from $651 million in 1963 to $925 million in 1966.

Wholly apart from this, it is just as unfair for the Government to impose forced labor on railroad workers for the profit of the railroad industry's customers—nearly all of whom are themselves profitmaking companies—as it is to impose forced labor for the profit of the railroad industry's stockholders.

If the Government wants to subsidize railroad freight rates, it should not take that subsidy by force out of the sweat and labor of the railroad employees.

We have had considerable experience with compulsory arbitration in the railroad industry, and all of that experience has been bad. The Railway Labor Act imposes a system of compulsory arbitration for so-called minor disputes or grievances, including the interpretation of labor agreements.

This has led to delays as long as 10 years in settling such disputes, causing great frustration and injustice to the employees. The situation became so bad, in fact, that Congress last year, by unanimous vote of both Houses, made substantial changes in the system. That bill, as I am sure you recall, came out of this committee.

Congress in 1963 also imposed a 2-year compulsory arbitration of the manning rules for railroad "operating" employees, affecting chiefly firemen (helpers) and trainmen. The compulsory arbitration board in that case handed down an unfair and confusing award, which has imposed needless suffering on thousands of men.

Also important is the fact that this compulsory arbitration award did not settle the manning rules question—it only swept it under the rug for a while, so far as the general public is concerned.

The unions involved have tried to settle the question through negotiations, but—except for one agreement between the trainmen and 34 railroads—the railroads instead have tied the union up through court injunctions.

In the end, the unions involved will get free of those injunctions, and then the manning question will either be settled through collective bargaining or Congress will face a new "crisis."

Altogether, up to now, compulsory arbitration has been a resounding failure in this industry. I believe Mr. H. E. Gilbert and Mr. Charles Luna will have more to tell you about that 1963 law, of great relevance to your consideration of House Joint Resolution 559.

Equally vital is the fact that an evenhanded seizure tends to promote a negotiated settlement of the labor dispute involved, while compulsory arbitration—despite all the trimmings that have been added to House Joint Resolution 559—does not promote a negotiated settlement, because it gives the railroad corporations no incentive whatever to budge from their present position.

In the last four Government seizures of the railroads, in 1943, 1946, 1948, and 1950, there were quite prompt negotiated settlements in three of the cases, even though those seizures were not evenhanded but were stacked in favor of the railroad corporations. Here is what happened:

In 1943 the railroads were seized on December 27, the dispute was settled by the parties by January 17, 1944, and the railroads were returned to their owners on January 18, 1944.

In 1946 the railroads were seized on May 17, the dispute was settled by the parties on May 25 (though only after President Truman had threatened to draft the strikers), and the railroads were returned to their owners on May 26.

In 1948, the railroads were seized on May 10, the dispute was settled by the parties on July 8, and the railroads were returned to their owners on July 9.

The Korean war seizure, on August 27, 1950, lasted very much longer—nearly 21 months. There were several reasons for that: An outrageously unfair Emergency Board recommendation, the wage controls in force at the time and, perhaps most important, the completely token nature of the seizure, including the assurance that the railroad corporations would collect all the profits.

In view of this record I find it astonishing that the railroads in their current propaganda claim that "seizure settles nothing." History shows that even a stacked, one-sided seizure has a good chance of promoting an early negotiated settlement—whereas the 1963 compulsory arbitration law truly did settle nothing. An evenhanded seizure law might well bring a negotiated settlement of this current dispute even before the law took effect.

I come now to my third topic: Who supports and who opposes the right to strike? I believe it is clear that the settled public opinion of the Nation—especially when opinion is not whipped up temporarily by the propagandists of crisis—does support the right to strike.

The Louis Harris organization found some significant answers to this question in a public opinion poll published in the Washington Post on March 28, 1967.

Mr. Harris, among other things, asked specifically how many people approved the right to strike for railroaders. He found that 69 percent of the general public and 89 percent of the Nation's union members voiced approval of this right for railroad employees.

Now I am aware that a poll could be made, financed, say, by the railroads and with questions supplied by their propagandists, which

might show different results. But I believe Mr. Harris' poll is an honest effort to get at the public's true feelings.

I find it significant also that the right to strike is supported by a very wide segment of the big business community. In March 1964 the Research and Policy Committee of the Committee for Economic Development, after 2 years of work on the subject, published a report entitled "Union Powers and Union Functions." This CED Research and Policy Committee, composed of 50 members, was headed then by Mr. Theodore Yntema, chairman, finance committee, Ford Motor Co., with Mr. Emilio Collado, vice president, Standard Oil Co. of New Jersey, serving as vice chairman.

Members included such men as Mr. John T. Connor, Mr. Marion B. Folsom, Mr. Frederick R. Kappel, Mr. Ralph Lazarus, Mr. J. M. Symes of the Pennsylvania Railroad—men of that stature in the big business world.

Mr. Chairman, I ask that a list of members of the CED committee who drew up that 1964 report be printed in the record after my statement.

The CHAIRMAN. Without objection, that may be done.

(See p. 233.)

Mr. LEIGHTY. Now, there is much in that 1964 big business report that I disagree with heartily, nor do I agree completely with their conclusions about "Government Intervention in Collective Bargaining." But I do find the general tenor of their conclusions on the subject highly significant, and I should like to read you a few paragraphs on this from their report:

> There is little evidence that industrial peace is achieved through increased government intervention. While government intervention may end particular strikes, the prospect of intervention may increase the number of disputes carried to the point where intervention becomes necessary. The number of strikes increased during World War II (1942–45) despite the quasi-compulsory arbitration provided by the War Labor Board. Experience with emergency boards under the Railway Labor Act provisions also suggests that fact-finding boards with power to recommend settlements do not lead to voluntary agreements. The government has seized the railroads and enforced acceptance of emergency boards' recommended terms of settlement when the railway brotherhoods have refused to accept the terms of the recommended settlement. In their effect on employers, recommendations were tantamount to compulsory arbitration. (This particular statement, I may say, I find inaccurate.) Free collective bargaining disintegrated in both cases to the point where Congress has now legislated overt compulsory arbitration in the railroad "work rules" case.
>
> The reason for the failure of government intervention to produce industrial peace is fairly clear. Compulsory settlement is destructive of collective bargaining because it removes the responsibility from the parties. Compulsory procedures establish an "adversary" attitude that minimizes the desire of either party to compromise . . . . Free collective bargaining falls into disuse under such a system.
>
> A further result is that government-influenced or government-dictated agreements may affect the entire economy, placing federal authorities in the role of controlling wages, prices and working conditions.
>
> *The proper role of government in labor-management relations and collective bargaining is to establish the rules of the game and see that they are observed —not to decide what the final score should be.* (Emphasis in the original.)
>
> We emphasize that the possibility and fact of strikes must exist if there is to be free collective bargaining, and we urge that government intervention in strikes should be strictly limited. However, strikes are not to be welcomed, and efforts *by the parties* to resolve their differences without work stoppages are important.

That was the conclusion reached by this group of big businessmen after 2 years of studying the subject. By contrast I should like to

quote from Mr. Daniel Loomis, speaking on behalf of the Association of American Railroads:

> The situation today and in the last 10 years has been the worst in history since the first attempt of Congress to deal with railway labor disputes. The railroad industry approaches the proposition of compulsory arbitration with considerable reluctance, but based upon the experience of the last 10 years we do not see any other solution to the problems * * * If we could see any other way out than the adoption of the final and binding effect of the awards of Presidential Boards we would accept it * * * The railroads believe, as I have already indicated, that the present Act should be amended to make the reports of Presidential fact finding boards in disputes concerning rates of pay, rules or working conditions, final and binding. We believe that strikes and lockouts in the railroad industry should be outlawed * * *

That is the railroad industry's view. But what I want to stress is that it is not a new view. Mr. Loomis made that statement to a Senate committee on July 25, 1950. That was almost 17 years ago.

In other words, the railroads were making the same kind of argument to Congress in 1950 about the "intolerable situation" that they are back here making to you today. Just how "intolerable" to the public interest has the railway brotherhoods' conduct been in the years since 1950? That brings me to my fourth and last topic—what is the background of labor-management relations in this industry, against which you should judge House Joint Resolution 559?

As to the industry itself, the railroads haul over 43 percent of the Nation's intercity freight traffic. Their gross revenues last year were $10.7 billion. Roughly, half their revenues go for labor costs.

In terms of carload freight haulage, about 90 percent of their business, the railroads are now making an effort to retain and recapture some of this business; but most railroads treat their passengers and their less-than-carload freight as unwanted stepchildren. There are 76 class I railroads and several hundred other railroads, including switching and terminal companies. There are about 630,000 current railroad employees.

On the labor side, the industry is organized on craft lines into 24 standard railway labor organizations. There is a considerable amount of joint bargaining by groups of unions, especially among the "nonoperating" organizations.

The practice of national handling, or industrywide bargaining, began in 1932 at the request of the railroads. Most of the unions also follow this practice on wage-and-fringe movements (as we call our requests for improvements).

However, the Locomotive Engineers and the Trainmen have begun to move away from national handling. In some cases, other unions also have found that the best way to achieve innovations in the way of employee benefits was to progress our movements first on individual railroads.

A notable example of that occurred in the field of job security.

Clearly the railroads are an industry affected with a public interest. The Railway Labor Act, and especially its section 10, recognizes that fact. We in railway labor recognize it also, and we have tried to cooperate in fulfilling the purposes of the Railway Labor Act.

What has developed in this industry, under constant use of section 10 of the act, is this: Collective bargaining has in most cases vanished, until after the appointment of an Emergency Board. Long delays are

common. Even after the Emergency Board reports, there is usually only a modest amount of real bargaining; the Board's recommendations, or something close to them, are usually the basis for settlement. I agree with the CED committee that this system has become far too rigid.

However, under our present system there do remain two areas of flexibility—and these are quite vital to any kind of social justice in this industry's labor relations. First, railroaders still have the legal right to engage in a national strike.

Of course, we are quite aware that the President and Congress have not allowed a national railroad strike to proceed at any time since 1922. But so long as we have the legal right to call a national strike, after authorization by our members, we have what amounts to a right of appeal against Emergency Board recommendations that are wholly inadequate and unacceptable. That is what has happened in the current shopcraft dispute.

In effect, this is a right to supermediation. Just how important this is, those of you who are lawyers can certainly recognize: How much justice would there be in our courts, without a right of appeal?

Of course, the railroaders' right of national appeal is not to some court or to compulsory arbitration; it is to higher level mediation; and so long as we retain our freedom, that is how it will remain. And considering the number of national labor disputes in this industry, I don't believe any fairminded person would say the railway labor organizations have abused this right of appeal.

We use it only rarely: only when an Emergency Board's recommendations, or the interpretation given them by the railroad negotiators, are grossly unacceptable.

Secondly, railway labor up to now has had both the legal and the practical right to strike one or a few railroads. We have used this right also only rarely. But it is essential to winning advances, and to preventing a breakdown of standard pay rates and working conditions, in the railroad industry.

In specific terms, how have we used these rights in the years since the Korean war seizure of the railroads ended? In those 15 years, as well as I can check, there have been 42 national movements for improvements initiated by the five operating organizations and the 11 principal nonoperating organizations, counting joint movements as one single movement.

Of those national movements, 39 were settled without a strike and without the kind of "crisis" that brings Congress into the picture.

Three movements remain unsettled today, including the present shopcraft movement. The one major national movement initiated by the railroads during these 15 years—to slash the pay and gut the working rules of their operating men—did bring Congress into the picture; it resulted in part in the 1963 compulsory arbitration law and in part in a negotiated settlement at the White House on June 25, 1964.

During these same 15 years, hundreds if not thousands of notices for improvements have been served on individual railroads by individual unions. In practically every case, these have been settled without disruption of service.

In the past 15 years there have been only five railroad strikes of any real importance—or possibly six, if you count the 4-day strike by the

Fireman and Enginemen last year on eight railroads. Three of those strikes were provoked by railroads resisting Emergency Board recommendations: The 1955 strike on the Louisville & Nashville, the 1962 strike on the Chicago & Northwestern, and the 1963 strike on the Florida East Coast, which still continues.

The Fireman and Enginemen's strike last year was provoked by the carriers' refusal to bargain. The two other strikes, on the Pennsylvania and the Long Island, both in 1960, were caused by other reasons.

I suggest to you that this 15-year record of the railway labor organizations is a record of extraordinary restraint. And this record has been written in an era of most exasperating delays and entanglements imposed by railroad managements. Now, after 15 years, you have one single dispute—the very first one initiated by railway labor—dumped like an unwanted baby in your laps by the administration. You will hear from Mr. Fox about how this dispute got here to you. You will hear the grim and painful story of what the railroad corporations are up to, on this matter.

Is Congress now, after the record we in railway labor have written for 15 years, going to fall for the railroads' game? Are you going to set a precedent that will destroy, in practical effect, our right of appeal from unfair and unjust Emergency Board recommendations?

Because that is the result that House Joint Resolution 559 or anything like it will have. Congress made one precedent for compulsory arbitration in 1963. If you make another one now, you will rob the national handling of railway labor disputes of most of the little flexibility that remains in it.

In future, the railroads will simply dig their heels in. Whatever "give" there is in these national disputes, whatever small amount of collective bargaining remains, depends wholly and solely on our legal right to strike. That is the only way we get to what I've called supermediation. That is what the railroads want to destroy.

If Congress twice enacts compulsory arbitration, the next time an Emergency Board in a national dispute is unfair to the employees, or vague, or simply tells the parties to negotiate on certain general lines (as often happens), the railroads will try to force that dispute back up to Congress. And they will do it the next time after that. And however many times are needed to make you throw up your hands in despair and enact the law they really want—a law depriving their employees forever of any right to strike over any dispute whatever.

Gentlemen, I have held you a long time. I can only plead, in excuse, the immense importance of this matter to the nation's railroad workers. I do suggest, again, that the best way to proceed is to implement our proposal for moving essential shipments.

Since the railroads absolutely refuse to cooperate in this approach and if you then feel that some legislation is vital against the shopmen's strike, and evenhanded seizure bill would be, we think, the least destructive approach. We strongly urge that House Joint Resolution 559, and any bill like it, be laid aside.

Thank you very much for your courteous attention.

Mr. Chairman, I would like to say in addition that you have only to examine the record in this industry to find that the organizations have exercised restraint, and the record which I have given you with respect

to strikes in the industry indicates to you how well the organizations have handled this situation.

Compulsory arbitration is something that is like waving a red flag at a group of workers, whether they be railroad workers or other workers. It is compulsion.

We have agreed to voluntary arbitration in many, many cases. But whenever the railroads get to the point where they think that all they have to do is say no, and force us into compulsory arbitration, then the freedom of our men disappears.

We can't do that in a free land such as we have in America. We could expect something like that in a Communist country.

Any action that is taken here to deprive our workers of their right to strike is certainly going to be exploited in every Communist country in the world, because it is going to have a serious and a very material effect.

I would like to say very briefly something about our meeting over in the Pentagon on Tuesday.

We were told at the beginning that they had already made up their minds that our plan was inoperable even before we had the opportunity of explaining how it would be handled.

Based on my experience in the railroad industry, and that is based upon 20 years' experience actually working on the railroads in various capacities which gave me an opportunity to not only observe but participate in many railroad operations, I say that our plan is a plan that can be worked out.

I want to point out to you in 1959 the Air Force did believe our plan would work out, and the railroad management joined with us in saying that we would work out a system. But here we found that the determination had already been made, and regardless of how feasible the operations would be under what we proposed they said, "Well, the decision has been made and we are not going to change it."

That is, in effect, what they said.

With respect to the compulsory arbitration that is now present in the so-called minor disputes, years ago on the railroads when you had a large number of disputes on the railroad a group of organizations would band together, set a strike date, which would immediately result in conferences with the railroad management, and those grievances on the individual railroads—in some instances going up to 100 or more—were settled.

Years and years ago I can only recall one strike in connection with that of any moment, and that was on the Missouri-Pacific Railroad. But generally they resulted in settlement of those disputes.

Then the Supreme Court decided that on minor disputes they must be submitted to the Adjustment Board. Then the backlog on the Adjustment Boards began to rise until today the first division, which handles the operating organization cases, is 8 to 10 years behind in their decisions on disputes.

We are receiving decisions now from the third division to which the clerks, maintenance of way, signalmen, telegraphers, train dispatchers, and other organizations take their cases—we are getting decisions now on cases that were filled 8 to 10 years ago.

That is what happened when the Supreme Court put into effect compulsory arbitration on the Adjustment Boards.

You gentlemen enacted a law last year establishing special boards which we hoped would break up this logjam that resulted. We don't want to see any more of that. It deprives the organizations of collective bargaining, and in cases of this kind the railroads tell the other organizations, "We can't meet with you because we have all these arbitration board proceedings and these matters confronting us. Therefore, we must delay any meetings with you" and all negotiations with railroads reach a standstill.

It is a situation that should not exist.

If the railroads were informed that no legislation would come out of this Congress, as I said before, this dispute would be promptly settled because settlement terms could be arranged that would be equitable to both parties, and would be arranged if the railroads would indicate and actually desire to negotiate. It would be within the framework that has already been discussed.

I want to call your attention to just one more thing. An Emergency Board on the Long Island Rail Road heard a Trainmen case and made recommendations a few days ago for 5 percent beginning October 1 of last year and beginning October 1 of this year, for another 5 percent.

So the so-called pattern of 5 percent for 2 years is not out of the picture, and an additional amount to take care of inequities is also in the picture. In that Long Island case, the Machinist and Electrical Workers were before this same Board, and they pointed out that their rates of pay, based on the quotations that they put into their report, were around 70 cents under what was paid for similar work in that area on the New York Transit Authority, for example, and the Board recommended that negotiations be conducted to give the people on the Long Island similar rates.

They didn't designate any figures, but they indicated quite clearly what their position would be.

They recommended an additional fifth week of vacation for all of these employees, as well as improvement in their health and welfare programs.

This is the recommendation of an Emergency Board on the Long Island Rail Road just a few days ago.

So I say to you gentlemen what would settle this strike would be clearly within the recommendations of what that Board recently presented.

I could talk to you on this subject for hours, but I think I better let you gentlemen ask any questions that you have to ask, and then Mr. Schoene would like to give you considerable additional information with respect to this proposed resolution and the dispute that now confronts the shopcrafts.

(The documents referred to in Mr. Leighty's statement follow:)

RAILWAY LABOR EXECUTIVES' ASSOCIATION,
Washington, D.C., November 10, 1959.

Col. EARL C. HEDLUND, USAF,
Director of Transportation, Office, Deputy Chief of Staff, Materiel, Headquarters, USAF, Washington, D.C.

DEAR COLONEL HEDLUND: You will recall that in recent discussions between representatives of our Association, the Association of American Railroads, Military Traffic Management Agency, and the Air Force concerning the ability of the Railroad Industry to provide uninterrupted service in support of the Air Force MINUTEMAN missile program, I assured you that the members and officers of the Railway Labor Organizations are patriotic and sincerely devoted to the ideals

of our country and could be expected to give paramount consideration to our country's defense needs whatever they might be and under all circumstances. I also pointed out, however that the organizations whose Chief Executives are affiliated with our Association are all autonomous entities and that I had no authority to make commitments for them. I stated that I would present the matter to the members of our Association at their scheduled meeting in Chicago beginning the week of October 26, 1959.

This I have done and the response was unanimous as I had anticipated.

I advised the other Chief Executives that Mr. Loomis had stated on behalf of railroad managements that if the assurances you sought from Railway Labor were given the managements would not, in the event of a strike, use service to the government as a means of impairing the effectiveness of a strike; that if missile train operations and other services in connection therewith were required, employes who would normally perform such services would be used under joint management-union arrangements and the services thus made available to the government would not be utilized by management in efforts to handle other traffic.

In your letter of October 23, 1959, you suggest that an understanding along the following lines might be appropriate.

"Both railroad management and railroad labor units in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force, in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

With the understanding that railroad managements involved will observe the conditions set forth above, as Mr. Loomis in our conference stated they would, the Railway Labor Organizations affiliated with Railway Labor Executives' Association, subscribe to the assurances as you have formulated it.

Sincerely,

G. E. LEIGHTY, *Chairman.*

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., November 4, 1959.

Col. EARL C. HEDLUND, USAF.
Director of Transportation, Office, Deputy Chief of Staff, Materiel, Headquarters, USAF, Washington, D.C.

DEAR COLONEL HEDLUND: Replying to your letter of 23 October 1959, with respect to the ability of the Railroad Industry to provide positive uninterrupted service in support of Air Force *Minuteman* missile program, when and if activated:

You suggest an understanding along the following lines:

"Both railroad management and railroad labor unite in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force, in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

This will advise you that I am authorized by the Board of Directors of the Association of American Railroads to confirm the above quoted understanding on behalf of its member lines.

I assume you will hear from Mr. Leighty as soon as his group has completed consideration of the matter.

Sincerely,

DANIEL P. LOOMIS, *President.*

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS, U.S. AIR FORCE,
Washington, D.C., Oct. 23, 1959.

Mr. DANIEL P. LOOMIS,
President, Association of American Railroads, Transportation Building, Washington 6, D.C.
Mr. G. E. LEIGHTY,
Chairman, Railway Labor Executive Association, Washington, D.C.

GENTLEMEN: In furtherance of recent exchanges of views between representatives of your organizations, Military Traffic Management Agency and the Air Force with respect to the ability of the Railroad Industry to provide positive uninterrupted service in support of Air Force MINUTEMAN missile program when and if activated, it is suggested that an understanding along the following lines might be appropriate.

"Both railroad management and railroad labor unite in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force, in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

It should be fully understood that the Air Force must be assured of timely and positive operation of this weapon system under all circumstances other than those attributable to acts of God.

In the event that your organization might wish further information with respect to our MINUTEMAN missile program, we would be happy to arrange such a presentation at the appropriate time.

Your response to the above proposal is requested so that the Air Force may proceed in its assessment of the feasibility of utilizing the nation's railroads as an integral part of a weapon system.

Sincerely,

EARL C. HEDLUND,
Colonel, U.S. Air Force, Director of Transportation.

MEMBERSHIP LIST OF THE RESEARCH AND POLICY COMMITTEE OF THE COMMITTEE FOR ECONOMIC DEVELOPMENT

Chairman: Theodore O. Yntema, Chairman, Finance Committee, Ford Motor Company.
Vice Chairman: Emilio G. Collado, Vice President, Standard Oil Company (New Jersey).
Frank Altschul, New York, New York.
Jervis J. Babb, New York, New York.
S. Clark Beise, Member, Executive Committee, Bank of America.
William Benton,[1] Publisher and Chairman, Encyclopaedia Britannica, Inc.
Marvin Bower, Managing Director, McKinsey & Company, Inc.
W. Harold Brenton, President, Brenton Companies, Inc.
Thomas D. Cabot, Chairman, Cabot Corporation.
Emilio G. Collado, Vice President, Standard Oil Company (New Jersey).
John T. Connor, President, Merck & Co., Inc.
Donald K. David, Vice Chairman, The Ford Foundation.
Marion B. Folsom, Eastman Kodak Company.
David L. Francis, Chairman, Princess Coals, Inc.
H. J. Heinz, II, Chairman, H. J. Heinz Company.

Robert Heller, Shaker Heights, Ohio.
William A. Hewitt, President, Deere & Company.
Alvin R. Jennings, Executive Partner, Lybrand, Ross Bros. & Montgomery.
Thomas Roy Jones, Schlumberger Limited.
Frederick R. Kappel, Chairman, American Telephone and Telegraph Co.
James M. Kemper, Jr., President, Commerce Trust Company.
Robert J. Kleberg, Jr., President, King Ranch, Inc.
Ralph Lazarus, President, Federated Department Stores, Inc.
Thomas B. McCabe,[1] Chairman, Scott Paper Company.
John F. Merriam, Chairman, Northern Natural Gas Company.
Don G. Mitchell, Chairman, General Time Corporation, New York, New York.
Alfred C. Neal, President, Committee for Economic Development.
J. Wilson Newman, Chairman of the Board, Dun & Bradstreet, Inc.
Nathaniel A. Owings, Partner, Skidmore, Owings & Merrill.
Howard C. Petersen, President, Fidelity-Philadelphia Trust Company.
Philip D. Reed,[2] New York, New York.
Frederick Roe, Partner, Stein Roe & Farnham.
George Russell, Executive V. P., General Motors Corporation.
Harry Scherman, Chairman, Book-of-the-Month Club, Inc.
S. Abbot Smith, President, Thomas Strahan Co.
Philip Sporn,[1] Chairman, System Development Committee, American Electric Power Co., Inc.
Allan Sproul,[2] Kentfield, California.
William C. Stolk, Chairman, American Can Company.
J. M. Symes, Chairman, Executive Committee, The Pennsylvania Railroad Co.
Wayne C. Taylor, Washington, D.C.
Alan H. Temple,[2] New York, New York.
J. Cameron Thompson, Retired Chairman of the Board, Northwest Bancorporation.
H. C. Turner, Jr.,[1] President, Turner Construction Company.
Walter H. Wheeler, Jr., Chairman, Pitney-Bowes, Inc.
Frazar B. Wilde, Chairman, Connecticut General Life Insurance Co.
Walter Williams, Chairman, Continental, Inc.
Theodore O. Yntema, Chairman, Finance Committee, Ford Motor Company.

Mr. DINGELL (presiding). I think that would be appropriate.

Mr. Friedel.

Mr. FRIEDEL. Mr. Leighty, I would like to make a statement first that I am a great believer in free collective bargaining. I am not fully convinced that House Joint Resolution 559 will be the answer to this problem.

But on the other hand, I am convinced that we cannot have a national railway strike.

Just reading the President's message of what would happen in 1 day, 2 days a week, and 30 days, such a strike would cause havoc. I don't know how long the strike might last.

You mention on page 2 that you wanted to raise four principal questions. In the second question, you said is there a Federal legislative approach to compulsory arbitration. Do you have any suggestion for a better approach than House Joint Resolution 559?

Mr. LEIGHTY. If Congress feels that something of that kind is necessary, an even-handed seizure of the railroads would be the answer, and I base that on what happened in four seizures of the railroads by the Government and what eventually came out of those seizures.

Mr. FRIEDEL. I notice in your statement on page 26 you mentioned there were five or probably six strikes of the railroads but none of them were national.

Mr. LEIGHTY. That is correct.

---

[1] Voted to approve the policy statement but submitted memoranda of comment, reservation or dissent, or wished to be associated with memoranda of others.
[2] Did not participate in the voting on this statement because of absence from the country.

Mr. FRIEDEL. Can you now strike on any particular railroad, or two or three, without disrupting the whole service throughout the United States?

Mr. LEIGHTY. Yes.

There isn't any one railroad or two railroads in the Nation that are absolutely essential. There are other means of transportation that can handle the traffic they haul.

If the national railroads were struck, they would all go down at one time.

There would not be, in our opinion, sufficient transportation to carry the goods of the Nation if such a strike should occur.

Mr. FRIEDEL. Mr. Wolfe made a statement that 74 percent have agreed to settlement, leaving around 26 or 27 percent who have not. Is that a correct statement?

Mr. LEIGHTY. No; that is not a correct statement. They have signed agreements, yes, but it isn't on the so-called pattern principle.

There were additional items considered in every one of those settlements. For example, in the Trainmen's settlement, instead of being effective from January 1, 1967, to January 1, 1968, it went back to August 12, 1966, and those employees received an increase of 5 percent from August to January that these other employees did not get.

They also received what amounts to 2 cents an hour increase in their health and welfare benefits. They also received $2,000 life insurance for employees who retire after a certain date.

The Firemen settled on a somewhat similar basis.

In connection with the Railway Clerks, they settled for a 5-percent increase. They also received a commitment from the railroads with respect to away-from-home expenses as well as some other commitments that I am not in a position to discuss here.

Mr. FRIEDEL. They were agreed upon, is that correct?

Mr. LEIGHTY. They were agreed upon settlements, but the point I am making is that they are not pattern settlements. I say there isn't a pattern in this industry at this time.

Mr. FRIEDEL. I am not speaking of any pattern. He made a statement that around 73 or 74 percent have settled.

Mr. LEIGHTY. Yes; that is true.

Mr. FRIEDEL. So it is only around 26 or 27 percent where there is no agreement. How far apart are they? Are they close on this thing?

Mr. LEIGHTY. Officially or unofficially?

Mr. FRIEDEL. Any way you want to give it.

Mr. LEIGHTY. Officially they are quite a ways apart.

Mr. FRIEDEL. Unofficially?

Mr. LEIGHTY. Unofficially they are not too far apart.

You appreciate, Mr. Congressman, that in negotiations neither side makes the disclosures. It is a matter of bargaining. Neither side makes a disclosure of what they would actually settle for because that jeopardizes their position in bargaining. You just approach it gradually.

If you say, "I will take this and nothing else," then the charge is made you have set your feet and you are not negotiating fairly and properly. That isn't done in collective bargaining, and it isn't possible in collective bargaining.

Having participated in collective bargaining on a national basis since 1946, I can tell you that in cases where on the surface they were

miles apart, they were very close together and a settlement was made in less than a week.

Mr. FRIEDEL. When was the last time you had what would be called a free collective bargaining meeting?

Mr. LEIGHTY. Insofar as my particular organization is concerned, we are one of the organizations that disposed of our dispute. I am president of the Transportation Communication Employees Union, which, together with the Maintenance of Way Employees, the Signalmen and the Dining Car Employees settled on January 13, 1967. Our settlement was 5 percent for 1967 and 2½ percent for the first 6 months of 1968.

It was a firm conviction of the organizations involved that the settlement in 1968 would eventually be 5 percent. We also secured an agreement with respect to negotiated away-from-home expenses which is a very important item to us.

We are also free to negotiate on any other subject except wages at any time, and on wages as of July 1, 1968, we can begin our negotiations. That is, we can begin our negotiations 3 months in advance of that date.

Mr. FRIEDEL. That 5 and 2½ percent, how long does that work? Is it for 1 year?

Mr. LEIGHTY. The 5 percent was for 1967. An additional 2½ percent will be applied effective January 1, 1968. We can reopen on July 1, 1968. I will say to you very freely that when we made that settlement of 2½ percent for half a year, we fully expect to get 5 percent for the year.

Mr. FRIEDEL. What would that run over a period of 2 years?

Mr. LEIGHTY. How much money?

Mr. FREIDEL. Not money, percentagewise. You are talking about 5 percent for 1 year and 2½ percent for 6 months. Is it 7½ percent?

Mr. LEIGHTY. It would amout to 7½ percent as of July 1, 1968. But very frankly we hope to make that up in the rates that will eventually become effective July 1, 1968, so our increase for the year would be 5 percent.

Mr. FRIEDEL. I think my time is up.

Mr. DINGELL. You have 1 more minute.

Mr. FRIEDEL. I was told they are not too far apart but because of this 2½ percent that was given to some other unions it will bring a variation down on the 5, 5, and 5. They feel because one settled on 2½ percent they are out of line that much.

Mr. LEIGHTY. If they settle for the 6 percent and the other organizations that are open on January 1, 1968, settled for 5 percent, which in my opinion they certainly will secure, the shopcrafts on July 1, 1968, are not only going to be 1½ percent behind, but they will be 4 percent behind.

Mr. FRIEDEL. That is what I understand. They will be behind.

Mr. LEIGHTY. That is correct.

Mr. DINGELL. Mr. Devine.

Mr. DEVINE. Thank you, Mr. Chairman.

Unfortunately I was detained and didn't have the benefit of your complete statement, Mr. Leighty. I would merely say this to you: Sitting up here we get the impression that management and labor

are acting like a couple of little boys, pointing their fingers at each other saying, "We are the good guys and you are the bad guys."

All of the equities are either on labor's side or management's side. I would say if I read the sense of Congress accurately, we are becoming a bit weary of being put in the position of attempting to mediate labor disputes when collective bargaining should resolve the differences.

As I say, you both point the finger at each other.

It seems to me that unless you can come to some conclusion, the Congress will ultimately pass some restrictive legislation that will not be satisfactory either to labor or management.

I would merely urge upon you and Mr. Wolfe—and, of course, Mr. Fox on behalf of your interests—to try to get this matter settled before Congress has to act.

I don't believe the proposed legislation would be satisfactory to either of the parties concerned.

Mr. LEIGHTY. Congressman, I would like to say that I personally am not involved in the current shopcrafts' dispute.

Mr. DEVINE. I understand; but you are speaking on behalf of the entire group.

Mr. LEIGHTY. That is correct.

But I am interested in anything that I can do to bring about a settlement of the dispute. I can assure you that my efforts are being devoted to that task.

Mr. DEVINE. I would hope that you continue. I don't think any useful purpose is going to be served by you calling the other side all kinds of names nor his calling you all kinds of names.

Mr. LEIGHTY. That is exactly what I pointed out in my statement. When you get to compulsory arbitration, you are really adversaries, you are not trying to evaluate the situation or making a reasonable determination of what the settlement should be.

If you begin calling each other names, you are not going to make a settlement.

Mr. DEVINE. Thank you.

That is all.

Mr. DINGELL. Mr. Satterfield.

Mr. SATTERFIELD. Thank you, Mr. Chairman.

Mr. Leighty, based on your assessment of the situation now, do you feel there is any prospect that free collective bargaining will begin between these parties on their own initiative?

Mr. LEIGHTY. On their own initiative?

Mr. SATTERFIELD. Yes.

Mr. LEIGHTY. Possibly not on their own initiative. I wouldn't paint a poor picture, but I think they could be induced to do some collective bargaining on it.

Mr. SATTERFIELD. I have one other brief question.

I take it from what you have said that the suggestion made to the Secretary of Defense to continue shipments necessary to the war in Vietnam and to public health is now at a standstill, that it is no longer being considered or discussed?

Mr. LEIGHTY. In effect, they told us that they had already made up their minds before they heard us. We explained how the various commodities could be handled, how it wouldn't pose very much of a prob-

lem, how we would open the picket lines to let the men through who were to handle these products.

Mr. SATTERFIELD. My question is: Are there discussions continuing in this area or are they at a standstill?

Mr. LEIGHTY. No; they indicated to us that was all they had to say and didn't want to hear any more from us.

Mr. SATTERFIELD. Am I correct in interpreting the telegram to mean that shipments involved would not necessarily relate solely to Vietnam, but any matter that might produce a public health emergency in this country?

Mr. LEIGHTY. Yes. We explained to them that that would include food products, perishable commodities, the coal necessary to operate essential utilities so that the public would not be deprived of what was needed for their health and comfort.

Mr. SATTERFIELD. Would not this situation be somewhat different from the situation as it pertained to the Minuteman trains?

Mr. LEIGHTY. To some extent it would be different. But you must realize that in connection with the Minuteman trains supplies would constantly be necessary, and goods to manufacture the supplies that the Minuteman trains would need would have to be moved.

There would be a number of things that would have to be done. We would have to arrange for the necessary transportation of individuals to make these Minuteman missiles. There would be a considerable involvement outside of just the actual movement of the trains.

But anything of that kind can be accomplished if the two sides say: "This is something we have to do and we will do it." If one side drags their feet it can't be done.

Mr. SATTERFIELD. Was there any discussion in the meeting you had on Tuesday with respect to what criteria might be employed or considered in terms of arriving at what an essential shipment would be?

Mr. LEIGHTY. As you know, all shipments move on bills of lading. We said that any bill of lading that carried a certificate from the Defense Department that these are essential goods would be accepted and moved without question.

With respect to food, we said that the food products would be moved without question and whatever amount of coal or fuel was necessary would be moved.

Mr. SATTERFIELD. It would be certified by the Defense Department?

Mr. LEIGHTY. No, not all to be certified. Just the war material to be certified.

Mr. SATTERFIELD. Who would do it?

Mr. LEIGHTY. Whoever would be most practical to do it. We would accept certification from them.

Mr. SATTERFIELD. Thank you.

Mr. FRIEDEL. Will the gentleman yield?

Mr. SATTERFIELD. Yes; I will yield.

Mr. FRIEDEL. Mr. Leighty, is there any possible chance to get the parties together to try to negotiate now, or are they waiting for us to pass some legislation. Why aren't they meeting now?

Mr. LEIGHTY. I can't answer that question as I am not one of the negotiators.

Mr. FRIEDEL. What can we do to try to get them together now to try to negotiate before the time expires?

Mr. LEIGHTY. My thought is that if your committee would get both parties not together immediately but get one side before you in executive session and lay the law down to that side and then get the other side before you in executive session and lay the law down to that side——

Mr. FRIEDEL. And they bring them both in together?

Mr. LEIGHTY. No; don't bring them both in together to start with. Bring them in separately to start with. Then let them have a session or two among themselves. Then call them in jointly and see what the situation is.

Mr. BROWN. Will the gentleman yield?

Mr. FRIEDEL. Thank you.

Mr. LEIGHTY. That is my opinion. I can't guarantee results. But based on my experience, that is what my answer is to your question.

Mr. BROWN. Will the gentleman yield?

Mr. SATTERFIELD. Yes; I will yield.

Mr. BROWN. Do I understand, Mr. Leighty, you suggest that we actually serve as arbitrators in this dispute?

Mr. LEIGHTY. He was asking how you could get them back together and I was answering the question. I wasn't making a suggestion.

Mr. DINGELL. Mr. Harvey.

Mr. HARVEY. Thank you, Mr. Chairman.

Mr. Leighty, the other night I was watching the news on television and they were showing excerpts of some of the testimony before the Senate committee on this same subject.

One of the labor leaders was testifying, and in fairness to you it was not yourself or a witness with you but the gist of his testimony was this: He said that labor was growing very tired of being victimized by the promanagement mediation boards.

I was quite shocked when I heard that because very frankly I had never thought of President Johnson as being antilabor or promanagement, or I hadn't thought in that same context of Willard Wirtz, Secretary of Labor, nor had I thought the long-time champion of labor in the other body, Senator Morse, was antilabor.

I wondered whether you agreed with the gist of this testimony that I heard, or how you would consider the Boards that have been appointed

Are they promanagement in your judgment?

Mr. LEIGHTY. Are you referring to the emergency boards that are appointed?

Mr. HARVEY. I am referring to the first mediation board, which was headed by Mr. O'Neill; the second one, Emergency Board 169, headed by Mr. Ginsburg; and the final one, headed by Judge Fahy.

Let us start at the end and go backward. That final Board was composed of Judge Fahy, recently retired judge of the U.S. Court of Appeals; John W. Taylor, professor of industry, University of Pennsylvania; and John T. Dunlop, professor of economics at Harvard University.

Would your judgment be that either all or any of these particular members were promanagement or that they were antilabor?

Mr. LEIGHTY. Yes.

Mr. HARVEY. Which one would they be?

Mr. LEIGHTY. It isn't hardly fair to ask me to name them, Mr. Congressman.

Mr. HARVEY. I am sure that the President would be interested in knowing who he is appointing who is antilabor and who is promanagement. I am sure Congress would want to know it and I would want to know it.

Let me ask you this: Do you consider Mr. Ginsburg to be promanagement or antilabor?

Mr. LEIGHTY. I would rather not answer a question of that kind. Suppose I make an answer to that and they are on the next Board before which I appear? What is going to happen to me?

Mr. HARVEY. You have had three Boards here. Are you telling us that you consider the personnel of these three Boards to be promanagement and antilabor?

Mr. LEIGHTY. No, sir.

Mr. HARVEY. You would disagree, then, with the conclusions expressed by the other witness over television before the other body; is that correct?

Mr. LEIGHTY. I didn't see that television performance. As you relate it, I couldn't agree with it entirely; no.

Mr. HARVEY. Let me ask you this: Do you think that the Boards were composed of fair and reasonably minded men who were out to decide this in the interest of the overall public interest?

Mr. LEIGHTY. Most of the men on those Boards, in my opinion, are fair and reasonably minded men. Sometimes there are individuals on the Board who are antilabor or promanagement, who control the thinking of the Board.

Mr. HARVEY. Let us be a little more specific. Do you think that a majority of these Boards are composed of fair and reasonably minded men?

Mr. LEIGHTY. No, I think a majority were fair and even minded men.

Mr. HARVEY. But you think that a majority erred in this case, nevertheless?

Mr. LEIGHTY. My thought is that they arrived at a compromise on what they should do.

Mr. HARVEY. That basically reflects the settlement of disputes, does it not; a compromise?

Mr. LEIGHTY. But a Board shouldn't compromise. A Board should come out with what they actually think the settlement should be, rather than compromising.

Mr. HARVEY. Is that what President Johnson has suggested in this legislation before us, that the Board come out with findings if negotiation cannot be successful?

Mr. LEIGHTY. That is what I understand the legislation to be; yes.

Mr. HARVEY. In other words, that is exactly the specifics of this particular proposal: is that correct?

Mr. LEIGHTY. Yes.

Mr. HARVEY. So do you think that would be a fair solution?

Mr. LEIGHTY. If it wasn't a compulsory solution; yes.

Mr. KUYKENDALL. Will the gentleman yield?

Mr. HARVEY. Yes.

Mr. KUYKENDALL. Am I to understand, sir, that you think than an arbitration board of this type should not arrive at a compromise which would take one or the other of the positions?

Mr. LEIGHTY. No. But I do think this: I personally know that on a three-man board, two of the representatives wanted to recommend one thing and the other one would not go along with that. So to have a unanimous opinion they came up with a compromise. The majority didn't say it was right, but they went along with it.

We did expect a minority opinion on one or two Emergency Boards that were created.

Has there been a minority opinion on any Emergency Board that you know of?

I think there was one once, but I think that is all.

Mr. HARVEY. Could I get to another subject in the mintue I have remaining?

In your telegram to the Defense Department you referred specifically to our Nation's military effort and public health. I wonder about an industry in my district, for example, which depends on either weekly or biweekly shipments of a raw material by rail, or component parts by rail to that particular plant, which employs upward of 2,000 people.

Would that be something that would be expected to continue even if it does not pertain to the national defense or does not pertain to public health, or would the 2,000 employees of that plant be laid off?

Mr. LEIGHTY. Yes; they would. That would not be essential to either the Vietnam effort or to public health.

Mr. HARVEY. So they would be laid off, would they, if a strike were called?

Mr. LEIGHTY. That is correct.

Mr. HARVEY. I would just say to you something along the line of what Mr. Devine said earlier. That is, that I don't think any member of this committee likes the situation in which we find ourselves here.

Very frankly, I wish somehow the process of collective bargaining would be able to continue. We think it could be settled better in that fashion, too. I would say as one member, having been called down to the White House once, and having met with the President, the Secretary of Defense, and so on, sitting there listening to them recite what would happen in the event there was a strike, it is pretty difficult to second judge the Secretary of Defense on a circumstance such as this.

I would certainly urge upon you everything you can possibly do to settle this strike before we have to rule upon it ourselves. If we reach that circumstance, I don't think anybody will like it.

I agree with Mr. Devine wholeheartedly in that regard.

Mr. LEIGHTY. I want to assure you that I will do everything I can to assist in making a settlement of this dispute so it does not come to the strike situation. If that does become imminent, I would like to point out to you again that in our opinion seizure is the answer because you will have no strike in the event of seizure.

Mr. HARVEY. It is pretty obvious that a strike is intolerable when you say since 1922 only one has been permitted to continue. That is

going through eight different Presidents, and no Congress has ever seen fit to have it happen. I am sure this Congress would not see fit to have it happen either.

Mr. LEIGHTY. By the same token, there has only been one law passed by the Congress in connection with compulsory arbitration, and that was in a dispute which the railroads initiated.

The CHAIRMAN. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Leighty, can you give us for the record your estimate of the cost package in terms of dollars and cents, the total to the railroads, of the railroad proposals, the demands by labor, the suggestions of the Fahy Panel, and any other recommendations that have been made by the National Mediation Board?

Would you submit those?

Mr. LEIGHTY. Yes; we will submit that. It will take a little while to develop that information, 2 or 3 days, possibly.

(The information requested follows:)

Submitted herewith by the Railway Labor Executives' Association are approximate estimates of the total cost of various settlement proposals in the railroad shopcraft dispute:

I. Carrier proposal of Mar. 28, 1967:
5-percent general increase for 1 year from Jan. 1, 1967, $39,620,000.
No figure can be assigned for the potential cost from a job evaluation study.

II. Union proposal of Apr. 18, 1967:
6½-percent general increase and 12½-cent inequity adjustment for skilled men for 1 year from Jan. 1, 1967, $76,506,000.
5-percent general increase and 12½-cent inequity adjustment for skilled men for 1 year from Jan. 1, 1968, $68,412,000.

III. Fahy mediation panel proposal of Apr. 21, 1967:
6-percent general increase and three 5-cent inequity adjustments for skilled men (as of Apr. 1, 1967, Oct. 1, 1967 and Apr. 1, 1968) for 18 months from Jan. 1, 1967, $93,816,000.

Mr. DINGELL. I am aware of that. I would like to have it in the record.

Mr. Chairman, it would be highly appropriate to have similar information submitted by the railroads and also by the Department of Labor or the Department of Transportation, so that we can make some judgment as to the relative dollar costs here involved.

Gentlemen, I am curious to know why is it necessary that we have a nationwide railroad strike instead of strikes of individual railroads?

Mr. LEIGHTY. That is a very good question.

Mr. DINGELL. You are aware of the practice in the auto industry where a strike involving contract termination does not necessarily close down all the auto producers. It would close down one and perhaps two.

Mr. LEIGHTY. Let me explain this to you, Congressman.

Mr. DINGELL. Don't forget, I am under the 5-minute rule.

Mr. LEIGHTY. Maybe they will charge the time to me. I won't take that long.

The railroads always serve a number of counterproposals as a strategic move so that if in trying to secure our proposals we should call a strike on individual railroads rather than a nationwide strike, they would place their obnoxious counterproposals in effect on all the other railroads and force us into calling a national strike.

That has been their conception and their purpose in serving counterproposals. That is the situation that is present in the industry today.

It is due completely to the fact that the railroads always submit counterproposals which would crucify our people if put into effect.

Mr. DINGELL. What you are saying, then, is that these counterproposals would be permanent in nature if you did not strike the other roads? Would they become a part of the contract and permanent and lasting, or would they last and exist until such time you would have terminated the first labor dispute and moved on to the second?

Mr. LEIGHTY. That has never occurred, but in my opinion that would be the result.

Mr. DINGELL. It would be permanent or temporary?

Mr. LEIGHTY. It would be temporary.

Mr. DINGELL. What you are saying is you don't work under the old contract but you would be compelled to work under a contract or working conditions entirely proposed by railroads without the protection of a contract between the parties?

Mr. LEIGHTY. Yes.

Mr. DINGELL. Would it be possible for us to legislate the contract into permanent existence even though a strike takes place, to permit the strikes to take place on a railroad-by-railroad basis? Is that possible?

Mr. LEIGHTY. That is a new concept. At first blush it would seem to be possible; yes.

Mr. DINGELL. Let me ask you here: Can you submit to us a comparison of wages in the same crafts with other industries, for example the railroads versus the auto or building trades, the steel trades, the aircraft industry, and some of the other segments of the transportation industry, trucking, or the airlines, where there are appropriate similarities of crafts, remembering that there might be very broad differences from region to region?

Mr. LEIGHTY. Yes, we can supply that information. I am sure the shopcraft unions will cooperate with us in giving that information to you, and we can get it from our records, too.

(The information requested follows:)

Submitted herewith by the Railway Labor Executives' Association are wage comparisons between railroad shopcraft employees and employees in other industries doing work as nearly comparable as possible.

The rates shown for shopcraft employees are present rates. However, rates for other employees are in most cases less than those now current, because of the lag in reporting.

Machinists

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Machinist (number: 20,202)	$3.0475	Jan. 1, 1966	Wage agreements with International Association of Machinists.
OTHER INDUSTRIES			
Building trades	4.8700	July 1965	U.S. Bureau of Labor Statistics.
U.S. Steel Corp	3.5530	Aug. 1, 1966	Union agreements with United Steel Workers.
General Motors: Electro-Motive Division.	[1] 4.0100	September 1966	Wage agreements of United Automobile Workers, Local 719.
Pullman, Inc.: Pullman Standard Division.	3.5530	Jan. 1, 1966	Wage agreements with United Steel Workers.
General American Transportation Corp.	3.5530	Feb. 15, 1966	Do.
Air lines, aircraft mechanic	3.7020	1966	Wage agreements with IAM.
	3.887	Jan. 1, 1967	
	4.081	May 1, 1968	
Tennessee Valley Authority	3.5600	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Pacific Coast Shipbuilding, repair work.	3.6000	Jan. 1, 1967	U.S. Bureau of Labor Statistics.
U.S. Naval establishments	3.4400	1966	U.S. Department of Navy, Office of Industrial Relations. Median rate in step 3 of pay level 11. Rates vary among 99 areas.
Union and nonunion combined, all metropolitan areas.[2]		February 1966	U.S. Bureau of Labor Statistics, Bulletin 1465-86, pt. II (forthcoming).

[1] Includes cost-of-living allowance.
[2] Straight-time hourly earnings for maintenance machinist:

	Median [a]	Interquartile range [a]	Size of sample (workers)
All industries [b]	$3.49	$3.19–$3.72	44,576
Manufacturing	3.49	3.19–3.71	42,175
Transportation, communication, and other public utilities	3.60	3.03–3.95	1,898

[a] The median designates position—half of the employees surveyed received more than the rate shown, half received less. The interquartile range is defined by 2 rates of pay—a fourth of the workers earned less than the lower of these rates and a fourth earned more.
[b] Does not include construction, mining, or government institutions.

Electrical trades (journeyman)

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Electrician (number: 11,753)	$3.0475	Jan. 1, 1966	Wage agreements with International Brotherhood of Electrical Workers.
Lineman (number: 2,246, including groundmen).	2.9950	do	
OTHER INDUSTRIES			
Building trades:			
Inside wireman	4.8100	July 1965	U.S. Bureau of Labor Statistics.
Electrician	5.0100	October 1966	Do.
U.S. Steel Corp.: Lineman	3.5530	Aug. 1, 1966	Union Agreements with United Steel Workers.
General Motors: Electro-Motive Division:			
Electrician, maintenance	[1] 3.9400	September 1966	Wage agreements with United Automobile Workers, Local 719.
Electrician, locomotive	[1] 3.3700	September 1966	
Pullman, Inc.: Pullman Standard Division: Electrician, shop	3.5530	Jan. 1, 1966	Wage agreements with United Steel Workers.
General American Transportation Corp.: Electrician	3.5530	Feb. 15, 1966	Do.
Tennessee Valley Authority: Electrician.	3.5600	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Pacific Coast Shipbuilding, repair work: Electricians.	3.6000	Jan. 1, 1967	Union agreements.
U.S. Naval establishment:			
Electrician	3.4400	1966	U.S. Navy Department, Office of Industrial Relations.
Electrician, lineman	3.4400	1966	Median rate in step 3 of pay level 11. Rates vary among 99 areas.
Union and nonunion combined, in metropolitan areas.[2]	----------	Feb. 1966	U.S. Bureau of Labor Statistics, bul. 1465-86; pt. II (forthcoming).

[1] Includes cost-of-living allowance.
[2] Median straight-time hourly earnings for maintenance electricians:

	Median	Interquartile range [a]	Size of sample (workers)
All industries [b]	$3.51	$3.21-3.75	56,034
Manufacturing	3.50	3.22-3.73	49,129
Transportation, communications, and other public utilities	3.75	3.39-4.05	4,025

[a] The median designates position—½ of the employees surveyed received more than the rate shown, ½ received less. The interquartile range is defined by 2 rates of pay—¼ of the workers earned less than the lower of these rates and ¼ earned more.
[b] Does not include construction, mining, or Government institutions.

Sheet metal workers

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Sheet metal worker (Number: 6,174)	$3.0475	Jan. 1, 1966	Wage agreements with Sheet Metal Workers' International Association.
Other industries:			
Building trades	4.6800	July 1965	U.S. Bureau of Labor Statistics.
United States Steel Corp	3.4800	Aug. 1, 1966	Union agreements with United Steel Workers.
Tennessee Valley Authority	3.5600	Dec. 26, 1965	Supplementary Wage Schedule B, Tennessee Valley Trades and Labor Council.
Pacific Coast Shipbuilding, repair work.	3.6000	Jan. 1, 1967	U.S. Bureau of Labor Statistics.
U.S. naval establishments	3.4400	1966	U.S. Navy Department, Office of Industrial Relations. Median rate in step 3 of pay level 11. Rates vary among 99 areas.
Union and nonunion combined, in metropolitan areas.[1]	----------	February 1966	U.S. Bureau of Labor Statistics, Bul. No. 1465-86, pt. II (forthcoming).

[1] Straight-time hourly earnings for maintenance sheet metal workers.

	Median [a]	Interquartile range [b]	Size of sample (workers)
All industries [c]	$3.49	$3.26-3.66	6,142
Manufacturing	3.49	3.29-3.66	5,817

[a] The median designates position—half of the employees surveyed received more than the rate shown; half received less than the rate shown.
[b] The interquartile range is defined by 2 rates of pay; a fourth of the workers earned less than the lower of these rates and a fourth earned more than the higher rate.
[c] Does not include construction, mining, or government institutions.

Blacksmiths and boilermakers

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Blacksmiths (number, 1,758)	$3.0108	Jan. 1, 1966	Wage agreements with International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers.
Boilermakers (number, 1,847)	3.0108	do	
OTHER INDUSTRIES			
Building trades: Boilermakers	4.9000	July 1965	U.S. Bureau of Labor Statistics.
United States Steel Corp.:			
Blacksmiths	3.4800	Aug. 1, 1966	Union agreements with United Steel Workers.
Boilermakers	3.4800	do	
General Motors, Electro-Motive Divison: Blacksmith, general.	[1] 3.3700	September 1966	Wage agreements with United Automobile Workers, Local 719.
Pullman, Inc., Pullman Standard Division:			
Blacksmith	3.4800	Jan. 1, 1966	Wage agreements with United Steel Workers.
Boilermaker	3.4800	do	
General American Transportation Corp.: Blacksmith.	3.4070	Feb. 15, 1966	Do.
Tennessee Valley Authority:			
Blacksmith	3.5600	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Boilermaker	3.5600	----------	
Pacific Coast Shipbuilding, repair work:			
Blacksmiths	3.6000	Jan. 1, 1967	Union agreements.
Boilermakers and iron shipbuilders.	3.6000	do	
U.S. naval establishments:			
Blacksmiths	3.4400	1966	U.S. Navy Department, Office of Industrial Relations. Median rate in step 3 of level 11. Rates vary among 99 areas.
Boilermakers	3.4400	1966	

[1] Includes cost-of-living allowance.

Carman

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Passenger carmen (number: 13,079)	$3.0108	Jan. 1, 1966	Wage agreements with Brotherhood of Railway Carmen of America.
Other carmen (number: 39,040)	2.9668		
OTHER INDUSTRIES			
Building trades:			
Carpenters	4.5600	July 1965	U.S. Bureau of Labor Statistics.
Painters	4.2800		
Structural ironworkers	4.7400		
United States Steel Corp.:			
Painter	3.188	Aug. 1, 1966	Wage agreements with United Steel Workers.
Carpenter	3.334		
Pipefitter	3.334		
Welder	3.407		
Mechanic, auto	3.407		
General Motors: Electro-Motive Division: [1]			
Welding, combination, maintenance	4.0100	September 1966	Wage agreements of United Automobile Workers, Local 719.
Carpenter, maintenance	3.8700		
Painter, maintenance	3.8700		
Arc welding and gas burning	3.3700		
Pipefitter, locomotive	3.3700		
Painter, locomotive	3.3700		
Carpenter, locomotive	3.3700		
Pullman, Inc.: Pullman Standard Division:			
Welder, draft	3.4070	Jan. 1, 1966	Wage agreements with United Steel Workers.
Pipefitter	3.334		
Carpenter	3.334		
General American Transportation Corp.:			
Pipefitter, maintenance	3.3340	Feb. 15, 1966	Wage agreements with United Steel Workers.
Carpenter	3.3340		
Welder, production	3.2610		
Tennessee Valley Authority:			
Structural iron worker	3.5600	Dec. 26, 1965	Supplementary Wage Schedule B, Tennessee Valley Trades and Labor Council.
Welder	3.5600		
Carpenter	3.4700		
Painter	3.4700		
Pacific Coast Shipbuilding, repair work:			
Acetylene burner	3.6000	Jan. 1, 1967	U.S. Bureau of Labor Statistics.
Driller and reamer	3.6000		
Painter	3.6000		
Rigger	3.6000		
Riveter	3.6000		
Welder	3.6000		
	3.6000		
U.S. naval establishments:			
Carpenter	3.3400	1966	U.S. Department of the Navy, Office of Industrial Relations. Median wage rates in third step of pay levels 10 and 11. Rates vary among 99 areas.
Painter	3.3400		
Riveter	3.3400		
Railroad car repairman (freight)	3.3400		
Upholsterer	3.3400		
Structural iron worker	3.4400		
Painter (aircraft finish and insignia)	3.4400		
Pipefitter	3.4400		
Heavy duty equipment mechanic	3.4400		
Welder	3.4400		

[1] Includes cost-of-living allowance.

Laborers and coach cleaners

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
General laborers: Shops, engine-house, and powerplants (number: 7,623).	[1] $2.5069	Jan. 1, 1966	Wage agreements with various railway unions, and ICC statement M-300.
Classified laborers: shops, engine-house, and powerplants (number: 5,746).	[1] 2.5522	do	
Coach cleaners (number: 3,791)	[1] 2.5415	do	
OTHER INDUSTRIES			
Building trades: Building laborers	3.5900	Oct. 3, 1966	U.S. Bureau of Labor Statistics.
Industrial chemicals and petroleum refining: Laborers, material handling.	2.6100	November 1965	U.S. Bureau of Labor Statistics. (Special study).
U.S. naval establishments:			
Laborer (pay level 1)	2.4100	1966	U.S. Navy Department, Office of Industrial Relations. Median rates on step 3 of pay levels 1 and 2. Rates vary among 99 areas.
Laborer (pay level 2)	2.4800	1966	
Tennessee Valley Authority: Laborer, unclassified.	2.4400	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Pacific coast shipbuilding, repair work: Laborers, production.	3.3000	Jan. 1, 1967	Union agreements.
New York transit system: Car cleaner.	2.8625	Jan. 1, 1966	Agreement with Transport Workers Union.
Union and nonunion combined, in metropolitan areas.[2]	----------	February 1966	U.S. Bureau of Labor Statistics, Bulletin No. 1465-86, pt. II (forthcoming).

[1] Rates shown are average straight-time hourly earnings, January 1966, computed from ICC statement M-300.

[2] Straight-time hourly earnings for laborers, material handling:

	Median [a]	Interquartile range [a]	Size of sample (workers)
All industries [b]	$2.55	$2.03-$2.88	239,026
Manufacturing	2.43	2.03- 2.77	130,862
Transportation, communication, and other public utilities	2.94	2.68- 3.21	48,014

[a] The median designates position—half of the employees surveyed received more than the rate shown; half received less than the rate shown. The interquartile range is defined by 2 rates of pay; a fourth of the workers earned less than the lower of these rates and a fourth earned more than the higher rate.

[b] Does not include construction, mining, or Government institutions.

Mr. DINGELL. With the brief time remaining, can you tell me what will happen to the dispute that was handled in the legislation in 1963? What about the manning rules disputes that exist? Are they going to come back during the pendency of the legislation that the administration has presented to this committee?

Mr. LEIGHTY. Mr. Schoene is going to have considerable to say on that point.

Mr. DINGELL. Very well. I will defer that question until that time. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Chairman, thank you.

Mr. Leighty, I want to apologize for not being here. I think you deserve an explanation. The President had a conference this morning on District of Columbia matters, matters which were urgent.

Mr. Nelsen on my side, and Mr. Adams on the other side, all had to be there and we have been there since 5 minutes to 10.

I hope you will accept our apology for not being here to hear your statement.

Mr. LEIGHTY. Certainly.

Mr. SPRINGER. Mr. Leighty, I think one of the problems before this committee which is most pressing, is that we have a clear understanding from you as to what you understand the differences are between the brotherhoods and management.

Did you hear the testimony of Mr. Wolfe yesterday and the day before?

Mr. LEIGHTY. No; I didn't hear the testimony.

Mr. SPRINGER. I wouldn't try to recollect all of that. I did get, as best I could, the matters that you submitted, as I understand it, as your side of this matter.

Mr. LEIGHTY. Congressman, let me interpose here.

I am the chairman of the RLEA and I am not directly involved in this dispute.

Mr. SPRINGER. Is Mr. Fox going to testify?

Mr. LEIGHTY. Yes.

Mr. SPRINGER. If you have knowledge, may I run through these and you can tell me if you do not have knowledge. We are just trying to pin this down so the committee has no misunderstanding about what the differences are with reference to this entire matter.

I am advised that there were eight matters submitted by labor. I will go in reverse order and get rid of the small ones first.

It is my understanding the paid lunch period was withdrawn.

Mr. LEIGHTY. Right.

Mr. SPRINGER. The second was pay for jury duty. Is that in dispute?

Mr. LEIGHTY. It isn't settled yet.

Mr. SPRINGER. It isn't settled?

Mr. Wolfe, I believe, said it was not in dispute. I don't know just exactly what that involves.

Mr. LEIGHTY. I think he believes that is going to be withdrawn.

Mr. SPRINGER. Then nine guaranteed holidays, as I understand it. Is that in dispute?

Mr. LEIGHTY. I would rather have the shop people answer that.

Mr. SPRINGER. The vacations, which I understand you submitted and both Boards recommended, is that in dispute?

Mr. LEIGHTY. The 3 weeks vacation after 10 years would be accepted as a settlement.

Mr. SPRINGER. The shift differentials which I understood to be 18 cents per hour, 4 to midnight, and 25 cents an hour from 12 to 8 o'clock——

Mr. LEIGHTY. I would ask them to answer that.

Mr. SPRINGER. Overtime would be double time.

Mr. LEIGHTY. I would like to have them testify on that.

Mr. SPRINGER. The cost-of-living increase for each quarter if there was a cost of living in each quarter, is that in dispute?

Mr. LEIGHTY. I am inclined to think that all of the wage issues are in dispute, but I don't think that issue is being pressed.

Mr. SPRINGER. Now I want to come to the eighth one which is, as I understand it, the increase in basic rates or what is called straight time. This is the big issue, is that correct?

Mr. LEIGHTY. That is one of the items. I think there are two big issues. That is one big issue, and then this skill differential is the other big issue. I believe that the shopcraft individuals or organizations feel that one is of equal importance with the other because the one is for the purpose of attempting to keep wage rates up to the increases that have been received in industry generally while the other is to correct an inequity that has grown in the skilled employees wages.

Mr. SPRINGER. I want to read, if I may, from a release which was made by the Special Panel appointed by the President in the railroad shopcraft-carrier dispute. This was released from the White House on April 22. It was the report of the Special Panel.

I want to read this. I want to get your comments.

> Indeed, it is our considered judgment that if the duration and size of the general wage rate increase expressed in percentage terms could be resolved, the amount of the adjustment to correct the wage inequity could readily be resolved. Our mediation has, of course, concerned the issues in the dispute as a whole, but the most intractable problem now concerns, 1, the duration of the agreement; and, second, the amount of the general wage increase.

Would you agree with that statement?

Mr. LEIGHTY. Yes. I wouldn't quarrel with that statement.

Mr. SPRINGER. In other words, these are the two real basic things on which there is a difference. You think the others probably could be resolved if these two things could be resolved?

Mr. LEIGHTY. I think the skill differential—the general wage increase, the skill differential and the duration of the contract. But the general increase and the duration all go together. Both of them go together. Here is the situation with respect to the shopcrafts.

This is May of this year. Any increase they receive should be effective as of January 1, 1967. You have practically a third or a half of the year gone. If you only have a 1-year contract or an 18-month contract, you will have to get back into negotiations again before the ink is dry on this contract.

In serving notices, you have to serve them originally on the original railroad and there has to be negotiation on that level first.

Mr. SPRINGER. You would have to serve that notice on November 1, 1967, is that right, under a 1-year agreement?

Mr. LEIGHTY. September 1 is the date that has been agreed to by these organizations and the carriers that have settled on the 1-year contract.

Mr. SPRINGER. Just the one further point. It is my understanding that thus far the railroads have made an offer of 5 percent plus a job evaluation study. Is that their offer as you understand it?

Mr. LEIGHTY. I think that was their offer at one time. They have indicated since that time that they would give consideration—it wasn't an offer—but they indicated they would give consideration to the 6 percent and on skilled shift differential they might make a slight downpayment, but there would have to be job evaluation.

Job evaluation is a very important issue, and the skilled differential, of course.

Mr. SPRINGER. You have not agreed on the amount to go into escrow in that instance?

Mr. LEIGHTY. No; there has been no agreement on that.

Mr. SPRINGER. I want to see if I can get the brotherhood's offer. If I state this correctly, would you say yes, and if I don't, amend it to correct it?

First, in the first year, if this were a 2-year agreement, it would be 6½ percent across the board plus 12½ cents for 1967. For 1968, 5 percent across the board and 12½ cents for 1968. Have I stated that correctly?

Mr. LEIGHTY. That is correct.

Mr. SPRINGER. Are there any amendments to that or any other conditions?

Mr. LEIGHTY. Any other conditions?

Mr. SPRINGER. Yes.

Mr. LEIGHTY. The only conditions are the same conditions that are in these other contracts, that they are free to negotiate on other issues. But all of the 74 percent which have settled do have that right to negotiate on other issues at any time.

Mr. SPRINGER. I just wanted to be sure that we knew where the respective parties stood.

Thank you, Mr. Leighty.

Mr. DINGELL (presiding). Mr. Rogers.

Mr. ROGERS. I just wish to ask a question or two.

All of us wish the Congress did not have to be involved in this, as you know, and wish the parties would go ahead and settle it.

Mr. LEIGHTY. We wish it would go away.

Mr. ROGERS. As I understand it, it is the position of your people that you feel it would be dreadful to have a nationwide strike.

Mr. LEIGHTY. We don't want a nationwide strike.

Mr. ROGERS. And you agree that this would be so hurtful that we should try to avoid this?

Mr. LEIGHTY. That is right.

Mr. ROGERS. You have gone to the extent of saying that you would deliver necessary services for defense and health.

Mr. LEIGHTY. That is right.

Mr. ROGERS. I think this is well established, that any nationwide strike would be harmful to the welfare of the Nation.

Mr. LEIGHTY. I think so; yes.

Mr. ROGERS. Where two parties cannot agree, since the Nation cannot endure a nationwide strike, what machinery should the Congress set up to help get the parties together? When everything else has failed, when you can't get together, either you won't agree or the other side won't agree, should there be some machinery that the Congress should set up to try to help get the parties together?

Mr. LEIGHTY. The only solution I have at the present time for a situation of that kind to prevent a nationwide strike would be seizure of the railroads on an equitable basis. It is the welfare of the country that is involved. If it gets to the point where it is for the welfare of the country, then we feel that whoever operates the property and receives the profit thereof should be the Government, not a private individual.

If you are going to deprive these people of their right to strike, or if they are going to be deprived of that right for the period of the seizure, which they would be, then the profits during that period should not inure to private corporations. They should go to the Government.

In our opinion, based on the four seizures that we have had, the seizure does provide a method of settlement.

Mr. ROGERS. Suppose the parties don't agree even though they have been seized? Then what? Do you just continue seizure?

Mr. LEIGHTY. Let me say this: On the basis of our experience with seizures, agreements are entered into. That is our experience under seizure. There have been four of them.

Mr. ROGERS. I am just assuming. Suppose the railroads don't agree? Suppose they are the ones who say, "No; we won't agree"?

Mr. LEIGHTY. Then I think at that time we will come to Government ownership and operation of the railroads on a permanent basis.

Mr. ROGERS. You would be willing to have Government ownership?

Mr. LEIGHTY. I suggested that 2 years ago and you should have heard the screaming on the part of the railroads.

Mr. ROGERS. Do you seriously maintain that we should have Government ownership and operation of the railroads?

Mr. LEIGHTY. Yes; Government ownership and operation of railroads; definitely.

Mr. ROGERS. Do you think that is worse than going to an arbitration board?

Mr. LEIGHTY. Do I think it is worse?

Mr. ROGERS. Or better?

Mr. LEIGHTY. Better, much better.

Mr. ROGERS. You think it is better for the Government to get into the running of the railroads' business in this country rather than to allow an arbitration board to try to get the parties together.

Mr. LEIGHTY. Definitely. An arbitration board to get parties together is one thing, but an arbitration board to make an award and enforce that award would be something else. If the arbitration board is——

Mr. ROGERS. This would keep you working under the seizure?

Mr. LEIGHTY. Yes.

Mr. ROGERS. Do you strike against the Government?

Mr. LEIGHTY. No.

Mr. ROGERS. Then you lose the right to strike during the seizure and Government operation?

Mr. LEIGHTY. What about your men in the Army? They can't strike.

Mr. ROGERS. I am just saying, are you willing to give up the right to strike during seizure and let the Government go into this operation like the Army? Is that what you are maintaining to this committee?

Mr. LEIGHTY. I am.

Mr. ROGERS. Well, I am shocked.

Mr. LEIGHTY. I am sorry.

Mr. ROGERS. I think if you reviewed this, I don't believe you really, seriously, would maintain to this committee that you would want to have the Government to go in under seizure and tell a man he can never strike against the railroads, with the Government running the railroads. I don't believe you want that.

Mr. LEIGHTY. I don't want it, but you are asking me for a solution.

Mr. ROGERS. I think you should review your testimony and correct it. I cannot believe this to be a serious proposal.

I do think that, of course, we do want the parties to get together. If everything does not work out, trying to get them together through joint meetings, efforts of Government mediators and emergency boards,

obviously the Congress will have to work out a plan. I don't think you seriously would want us to seize the railroads from now on, to run them, and never allow anybody to strike.

Mr. LEIGHTY. Let me say, Congressman, if you seize the railroads and it is even-handed seizure, the railroads wouldn't be operated very long, possibly a week or 10 days, and you will see a settlement.

Mr. ROGERS. But you think that is better than going to an arbitration board?

Mr. LEIGHTY. Definitely. Everything has already been heard that an arbitration board could hear.

Mr. ROGERS. What about going to a court?

Mr. LEIGHTY. No.

Mr. ROGERS. You would not believe in a labor court?

Mr. LEIGHTY. No; no labor courts.

Mr. ROGERS. You don't have much confidence in the judicial system?

Mr. LEIGHTY. Mr. Schoene will speak to that. If you are asking for my personal opinion, I am very much disappointed in our judicial system.

Mr. ROGERS. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Dr. Carter.

Mr. CARTER. Thank you, Mr. Chairman.

I have been very much impressed by your frankness and sincerity. Certainly, I appreciate the union's willingness to continue the shipment of war materials, missiles, and so on, and the supplies necessary to public health.

I must say that I am in disagreement with Government ownership. Look what Government ownership has done to the Post Office.

I am thankful that our ranking member brought out so succinctly the points of contention. It seems that really there is not too great a variance in what the railroads want and what the unions want. Certainly, I am hopeful that this can be resolved without the necessity of Congress taking action in this field.

Thank you, sir. I yield the balance of my time to Mr. Brown.

Mr. BROWN. On the point Mr. Rogers was discussing with you, I, too, am shocked.

Let us assume we have Government seizure of the railroads and Government ownership of the railroads, and the employees of the railroads are not satisfied with their wages and working conditions.

What recourse then would they have?

Mr. LEIGHTY. The railroads' employees would be performing a public service for a nonprofit organization. Their recourse would be the same recourse that other employees of the Government would and that is to come to Congress with their grievances.

Mr. BROWN. In other words, Congress would be establishing the wage rates and the working conditions of the railroad workers?

Mr. LEIGHTY. That would be the final source of appeal.

I am not advocating in this case that the Government take over the railroads. The only thing I am advocating is that they seize and operate the railroads in the period of the so-called emergency. As I have said before, based on our past experience, it isn't going to last very long.

Mr. BROWN. Then if I understand it correctly, your preference would be for seizure to House Joint Resolution 559?

Mr. LEIGHTY. That is correct.

Mr. BROWN. Where do you put the strike in those three possible choices? Is it the second choice after seizure and preferable to 559?

Mr. LEIGHTY. The second choice is seizure. We are absolutely opposed to any compulsory arbitration.

Mr. BROWN. Where do you put the strike?

Mr. LEIGHTY. First.

Mr. BROWN. That would be your first choice?

Mr. LEIGHTY. First.

Mr. BROWN. For Congress to do nothing?

Mr. LEIGHTY. With our offer to handle essential war material and whatever may be necessary for the health of the Nation.

Mr. BROWN. So your first choice would be for this committee and the Congress to do nothing?

Mr. LEIGHTY. That is right.

Mr. BROWN. Your second choice would be for it to approve seizure?

Mr. LEIGHTY. That is right, even-handed seizure.

Mr. BROWN. Do you feel that a rail strike is not going to be that damaging, then, providing you go ahead and handle the war surplus and public health and public necessity transportation?

Mr. LEIGHTY. Based on my knowledge, of this particular dispute, the amount it would cost the railroads to dispose of this dispute over what they have indicated they would give is so insignificant that they should not even be here with this kind of a proposal. It should have been settled. I heard about what they said, how much a strike would cost and those various things. This should have been settled without even coming before you. But they think that this is an opportunity to get what amounts to compulsory arbitration.

Very frankly, I agree with Mr. Fox, that is why no settlement has been made.

Mr. BROWN. And what about the other working men who are not engaged in either defense work or public health and safety activities, those people that would be put out of business temporarily by a rail strike? What about the damage to them?

Mr. LEIGHTY. I want to reiterate, a reasonable disposition can be made of this dispute if the railroads would really engage in collective bargaining. But they want compulsory arbitration. This is their opportunity to get it. They are not going to give up on it very easily.

The CHAIRMAN. The gentleman's time has expired.

Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. Leighty, I want to know first whether you and your men would be willing to go into around-the-clock negotiation on this matter.

Mr. LEIGHTY. I would have to ask the shopcraft people. They are all here.

I turned to the shopcraft group and there seems to be a divided opinion on that.

Mr. ADAMS. I have asked the same question of management. As I indicated to Mr. Wolfe, when he was here, the basic position that many of us have is that we think the public interest has been involved and we are trying to determine a method to put both parties in the position where the choice of legislation is unpalatable and they will bargain this out.

I apologize for being late, Mr. Leighty, and I am told Mr. Springer explained that we had to be at the White House this morning, that being the reason that we were not here.

I gather from your statement that you are against the compulsory arbitration.

Mr. LEIGHTY. Definitely.

Mr. ADAMS. And you are against then having legislation that prevents you from striking?

Mr. LEIGHTY. That is right.

Mr. ADAMS. With regard to the question asked by Mr. Rogers, and I believe it was asked on the other side, with regard to seizure of the railroads and your not being able to strike, you are not able to strike now, are you?

Mr. LEIGHTY. No. That is right.

Mr. ADAMS. Under House Joint Resolution 559, you would not be allowed to strike, would you?

Mr. LEIGHTY. That is right.

Mr. ADAMS. What some of us are working on is whether or not we should come down on both sides here and maybe say to you, we will go with some type of compulsory arbitration and no right to strike, and on the other hand, we will go to the railroads and seize them.

I will ask you this question: Seizure occurred in 1946 and in 1950, did it not?

Mr. LEIGHTY. That is right.

Mr. ADAMS. Did it have an effect in the collective bargaining process during the 1950's, in terms of pressure on the parties to settle?

Mr. LEIGHTY. Yes; there is no doubt about that.

Mr. ADAMS. In 1963, and in the airline strike, there had been a threat of just compulsory arbitration. Has that had an effect on the collective bargaining process?

Mr. LEIGHTY. It definitely has because that is what is being relied upon, in my opinion, by the railroads now, in their refusal to settle this dispute.

Mr. ADAMS. There have been stated the publicly stated proposals of both the railroad and of labor. I will ask you this question, and I asked Mr. Wolfe the same question—I think we have to take the top off the collective bargaining process because the public interest is involved in this case at this point.

Are you, representing the labor union groups, willing to move from your publicly stated positions and have you so informed the mediators?

Mr. LEIGHTY. Let me clear that up, Congressman.

I am chairman of the Railway Labor Executives Association, speaking for all of the organizations affiliated with us. But I do not speak as a unit or handle the negotiations of the various groups. I handle the negotiations for certain groups. The shopcrafts in this case are handling their own negotiations. That is a question they would have to reply to when they have their witness on the stand.

Mr. ADAMS. Will there be such a witness, Mr. Chairman?

The CHAIRMAN. Yes; next Tuesday.

Mr. ADAMS. You might carry that information to him, that that question will definitely be asked. If these two parties are both standing on fixed positions, then we are going to have to apply some sanctions—

and by "we," I mean the Congress in the public interest—and a number of us, as I indicated to Mr. Wolfe, have been working on proposed forms of legislation to do just that. We wanted to state publicly, so that you were on notice, as well as the railroads, that we don't think either of you are going to like what is going to be proposed. That question will be the first one that I will ask.

I have no further questions.

Mr. DINGELL. Will the gentleman yield?

Mr. ADAMS. Yes.

Mr. DINGELL. It is our expectation to make the alternative legislation equally obnoxious to both, and not unduly unfair to one side or the other.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. Mr. Leighty, I would like to get from you, or someone in the shopcraft unions, information on what a rail strike would cost your employees per day, per week, per month, or whatever kind of figure you might give me in terms of wages lost.

Mr. LEIGHTY. Do you want the aggregate amount or amount per employee?

Mr. BROWN. I would like to have the aggregate amount of the employees who would be out on strike, what the cost is to those individual employees in a rail strike.

Mr. LEIGHTY. We will supply that for the record.

(The information requested follows:)

MEMORANDUM SUBMITTED BY THE RAILWAY LABOR EXECUTIVES' ASSOCIATION ON ESTIMATED STRIKE LOSS TO EMPLOYEES

On the basis of the railroad payroll for the year 1966, we estimate that a strike of the shopcraft employees would result in a wage loss to them of about $2,694,000 a day and for all employees, it would be $13,368,000 a day.

If it is assumed that supervisory employees would continue to be paid, the loss for all employees would be $12,788,000 a day.

Mr. BROWN. I would like to pursue for a moment the question Mr. Dingell raised earlier, and that is the possibility of making your wage negotiations or labor negotiations nonnational. Is it practical any place along the line for the unions to negotiate other than on a natiowide basis? Is it practical for the maagement of the railroad industry to negotiate on other than a nationwide basis?

Mr. LEIGHTY. I do not consider it practical. You would have to have 200 to 300 separate negotiations in the railroad industry on each movement. I don't believe it would work out.

After years of experience in trying to handle it on that basis and a regional basis, both sides in the 1930's came to the conclusion that the national basis of handling was the better of the two.

Mr. BROWN. And now we are seeing the demise of collective bargaining.

Mr. LEIGHTY. I think that has come about for a number of reasons.

Mr. BROWN. Unrelated to the fact that we are now bargaining nationally?

Mr. LEIGHTY. Yes.

Mr. BROWN. You think that has nothing to do with it?

Mr. LEIGHTY. I would say very frankly to you that the railroads have seen fit to conduct their negotiations from one focal point, and that there isn't any one man who can handle a situation of that kind.

Mr. BROWN. If it were legislated, however, that this were not within the realm of possibility without being a monopoly on the part of the railroad, would the union be in a position to profit from that kind of regulation or would management be in a position to profit from that kind of regulation?

Mr. LEIGHTY. I don't quite understand your question.

Mr. BROWN. If you made it a monopoly practice to bargain on a nationwide basis rather than railroad by railroad, would the pressure be greater on the management or on the union to settle disputes?

Mr. LEIGHTY. I don't think that makes a great deal of difference. The difficulty with national handling of it, as I see it, is that it does give the railroads an opportunity to refuse to make a settlement and create what may be considered an emergency, a national crisis, and endeavor to force compulsory arbitration upon us, which we certainly cannot willingly accept.

Mr. BROWN. I am not sure that answered my question.

Mr. LEIGHTY. I think insofar as national negotiations are concerned, as they have worked out in the past, it has been advantageous to both of us. I think it has helped us materially; it has helped the carriers materially. It has prevented, in my opinion, a great deal of chaos.

For example, the organizations go on the Santa Fe Railroad and get an increase of 20 cents an hour. Then the employees on the Southern Pacific go in and say, "No, we will not settle for 20. We have to have 22."

Mr. BROWN. Is it possible that there are conditions on one of the railroads that would necessitate 22 rather than 20 cents an hour?

Mr. LEIGHTY. There is a possibility of that kind. I would say that generaly speaking national negotiations are beneficial to both sides.

Mr. BROWN. I would have to differ with you only to the extent that I think national negotiations, the nationwide character of the emergency we now find ourselves in, is a contributing factor to the circumstance. I think we are a bit off the subject.

Let me ask you a question relating specifically to House Joint Resolution 559.

Do you agree with the way the Board is constituted under House Joint Resolution 559, a five-member totally public board, with one member having some background in labor, and one member having some background in management?

The legislation aparently doesn't say railway labor or railway management.

Do you accept that?

Mr. LEIGHTY. I don't think it needs to be railway labor. I think probably it is advisable because we often find that these public boards come up with recommendations which most of us agree would be entirely impractical. By having a labor representative and a manage-

ment representative on the Board we should be able to prevent them from coming up with something completely impractical.

Mr. BROWN. It seems to me in this circumstance that both labor and management are using the Congress, and specifically perhaps this committee, or focusing on this committee, as a tool in negotiation.

From what you have said and what Mr. Wolfe has said, I get this impression, whether it is proper or not. Do you think that is a fair interpretation of the circumstances?

Mr. LEIGHTY. We have no desire to go to the Congress.

Mr. BROWN. Do you think the railroad management does?

Mr. LEIGHTY. Yes, frankly. Yes. They are trying to follow through on what Mr. Loomis said in 1950, which I read in my statement.

In 1950 he advocated compulsory arbitration.

Mr. BROWN. And if we approved House Joint Resolution 559, you would see this as a prorailroad management solution to this problem?

Mr. LEIGHTY. Definitely.

Mr. BROWN. Would you conclude, then, also, that if we advocated House Joint Resolution 559 but seizure, that this would be interpreted by railroad management as accepting labor's viewpoint in this negotiation procedure?

Mr. LEIGHTY. No; I do not think it would be so interpreted. I think an honest analysis would prevent that.

Mr. BROWN. You think that it would indicate——

Mr. LEIGHTY. No; it would not indicate that. It would not indicate it was prolabor. Seizure isn't prolabor. We would be barred from doing a lot of things under the seizure law.

Mr. BROWN. How would you interpret our washing our hands of this thing and taking no action whatsoever?

Mr. LEIGHTY. I think if you washed your hands of the thing and took no action whatever a settlement would be made before the strike, before June 19.

Mr. BROWN. And if there were not a settlement?

Mr. LEIGHTY. There would be a settlement.

Mr. BROWN. You are sure of that?

Mr. LEIGHTY. Well, that is my firm opinion. I hope you would not put me in the electric chair if it did not go that way.

Mr. BROWN. But it is worth our taking that risk?

Mr. LEIGHTY. That is worth your taking that risk; yes.

The CHAIRMAN. That will conclude the questioning, Mr. Leighty.

Mr. LEIGHTY. Thank you, Mr. Chairman. I appreciate the courtesy extended to me by the committee.

The CHAIRMAN. I wish to thank you for coming before us this morning.

This will conclude our hearings for today. We will resume next Tuesday.

I hope next Tuesday we will have a bit of a speedup. We might have some afternoon sessions at that time or maybe in the evening. I don't know.

I think we are now getting the essential information we need in order to make a decision as a committee. We hope if we have some

questions we might need to ask you or management, we can have the opportunity of bringing you back for those questions.

Mr. LEIGHTY. I will make myself available.

Mr. SPRINGER. Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. I think there are many members who are not here today who would like to have your statement in their offices. Could you supply these over the weekend?

Mr. LEIGHTY. I believe a copy was laid at each Congressman's position.

Mr. SPRINGER. I meant to their office.

Mr. LEIGHTY. Yes, we will arrange to do that.

The CHAIRMAN. Again, thank you.

This will conclude our hearings for today, until next Tuesday morning at 10 o'clock.

(Whereupon, at 12:25 p.m., the committee adjourned, to reconvene Tuesday, May 23, 1967, at 10 a.m.)

RAILROAD LABOR DISPUTE

TUESDAY, MAY 23, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

We are meeting again this morning in continuation of hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

We have as our witness this morning Mr. Joseph W. Ramsey, general vice president of the International Association of Machinists.

Welcome to the committee, Mr. Ramsey. We are glad to have you. You may proceed with your statement as you see fit.

We would like you to identify the gentlemen who are with you, for the record, before you proceed.

STATEMENT OF JOSEPH W. RAMSEY, GENERAL VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS; ACCOMPANIED BY ANTHONY KRAUSE, ASSISTANT GENERAL PRESIDENT, BROTHERHOOD OF RAILWAY CARMEN; J. W. O'BRIEN, GENERAL VICE PRESIDENT, SHEET METAL WORKERS; THOMAS V. RAMSEY, INTERNATIONAL VICE PRESIDENT, ELECTRICAL WORKERS; EDWARD WOLFE, VICE PRESIDENT, BOILERMAKERS & BLACKSMITHS; AND JAMES ZINK, EXECUTIVE VICE PRESIDENT, FIREMEN & OILERS

Mr. RAMSEY. Mr. Chairman and members of the committee, I will introduce my colleagues of the Executive Council of the Railway Employees Department who are here at the table with me.

On my extreme left, Mr. Anthony Krause, assistant general president, Brotherhood of Railway Carmen.

To my immediate left, Mr. J. W. O'Brien, general vice president of the Sheet Metal Workers.

On my immediate right, Thomas V. Ramsey, international vice president of the Electrical Workers.

Next to him is Mr. Edward Wolfe, vice president, Boilermakers & Blacksmiths.

At the end of the table, Mr. James Zink, executive vice president of the Firemen & Oilers.

Mr. Chairman and members of the committee, my name is Joseph W. Ramsey and I am a vice president of the International Association of Machinists & Aerospace Workers. I am also cochairman, with Mr. Michael Fox, for the handling of the current wage and rules movement of the 137,000 railroad shopmen.

The Executive Council of the AFL–CIO Railway Employees' Department, 220 South State Street, Chicago, Ill., negotiates for the railroad shopcrafts and I appear before you today on their behalf.

The six unions (seven crafts) comprising this executive council are the International Association of Machinists & Aerospace Workers; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood Railway Carmen of America; and International Brotherhood of Fireman & Oilers.

I might at this moment call attention to the fact that we have caused the distribution along with our statement to the members of your committee a booklet entitled, "What is Wrong With Job Evaluation," and also a transcript of the minutes taken at a meeting with the two members of the Emergency Board panel that was held shortly after their report and recommendation was made.

We do not intend that this would be incorporated as a part of this record, but we made this distribution for the information of the members of this committee.

On behalf of the members of all these organizations, I wish to express our most vigorous opposition to the administration's bill, House Joint Resolution 559. This bill, if enacted, will rob the railroad shopcraft employees of their right to strike for a period running as long as December 31, 1968, and covering the most basic terms of their pay and working conditions.

At the same time that it robs our members of their only economic weapon—the right to strike, this bill imposes no comparable penalty of any kind on the railroad corporations which have refused for nearly a year now to settle our 1966 requests for better pay and conditions. That is surely not fair and equitable legislation.

Spokesmen for the administration have said this is not a compulsory arbitration bill. As to that assertion, I can only repeat what Mr. Leighty told you last Thursday. He said it is compulsory arbitration; I say it is and the people we represent say it is.

What this bill proposes is a long step toward dictatorship—with the Government using the threat of prison to make the railroad shopmen labor for less pay than they themselves could win by the exercise of their economic strength. And the effect of this is to increase the profits of the private railroad corporations. Is that the American way? It sounds to us more like a slave enterprise system than a free enterprise system.

Let me say that I asked our attorney how this bill, if enacted, would be enforced. He told me it would undoubtedly be enforced by some Federal judge issuing an injunction. And that injunction would be enforced by contempt of court orders, with the judge empowered to throw any strikers into prison or to fine them heavily or both.

Of course, we have had more than a taste already of Government by injunction, in the railway labor movement. In fact, it was an

infamous Federal injunction which broke the great railroad shopmen's strike of 1922. That was the last time the shop crafts struck the Nation's railroads—45 years ago.

I could expand at some length on our views about this bill, House Joint Resolution 559, but I do not want you to have to hear the same story twice.

Mr. Leighty, speaking on behalf of substantially all of the railway labor unions, has given you railway labor's detailed views about this legislation and about the general background from which you may wish to judge it.

I believe I can help you most today by telling you about the dispute which gave rise to the President's message of May 4 and to the present bill. I shall sketch in very briefly the background of the dispute. The more recent events, including the propaganda claims by the railroads, deserve more thorough treatment.

This dispute began on May 17, 1966, when the shop craft organizations served notices on the railroads asking for a 20-percent general pay increase effective January 1, 1967; a cost-of-living escalator clause; increased overtime rates; differentials of 18 cents an hour for the swing shift and 25 cents an hour for the night shift; substantial improvements in the vacation and holiday rules; paid 30-minute lunch periods; and pay for jury duty service.

The railroads in June 1966 served drastic counterproposals. These called for abolishing all craft lines in our work; gutting our national job security agreement of September 25, 1964; slashing by 20 percent the hourly pay of all new employees except journeymen mechanics; and weakening other established rules.

The railroad negotiators found time to hold only 4 days of very limited direct national negotiations with us last year at which they made no real effort to engage in meaningful collective bargaining.

Regular national mediation by the Chairman of the National Mediation Board ended after only seven very brief sessions, during which the railroads again made no real effort to settle.

We have prepared on a one-page sheet a listing that shows the amount of time spent in negotiations and in all kinds of mediation since we began this movement more than a year ago. That sheet is attached to my statement and I ask permission, Mr. Chairman, that it be printed in your hearing record at the end of my statement.

The CHAIRMAN. It will be included at that point.

(See p. 269.)

Mr. RAMSEY. At this time, I might depart from the text for a moment to call your attention to the fact that this chronology of meetings since the 1966 wage rules movement includes in the time designated for each meeting the total time from the time we met until we departed from the meeting or conference.

So, it would include short recesses or even extended recesses when we were in mediation. The total time on direct negotiations, if you care to note it, for the first item, is a total of 4 hours on several days.

Mediation sessions, including recesses, totaled 10 hours and 25 minutes on the several dates. Of course, the Emergency Board hearing included the days of February 1 to 9, inclusive. The total time, as you will note, for our meeting with members of the Ginsburg Board, was 1 hour and 50 minutes.

After the Emergency Board report, meetings with the carrier committee totaled 2 hours. Meetings with the Labor Department officials, including Secretary Wirtz, Under Secretary Reynolds, et cetera, totaled 7 hours and 20 minutes. Meetings with and before the Fahy Panel totaled 23 hours and 40 minutes on the dates of April 14 to 23, inclusive.

The subsequent meetings after the Fahy Panel report with the carriers involved 40 minutes. That was the total time.

To continue with my statement, meanwhile, in late October 1966, our members in every union and every craft had voted overwhelmingly to strike if necessary to achieve a satisfactory agreement. However, contrary to what has been previously testified to you by the carrier witness, no strike date was set by us until months later after exhaustion of all procedures of the Railway Labor Act.

The reason for the overwhelming strike vote lies in our members' lagging pay. The skilled shopmen, who include about three-quarters of our total group, earn less than $3.05 an hour. After deductions, many of them take home less than $100 a week. Yet they see men with comparable skills in other industries earning far, far more, in some cases as much as $1.50 an hour more.

Judge Charles Fahy, chairman of the President's special mediation panel, publicly confirmed this drastic pay lag of the skilled shopmen. He told the Senate Labor Committee on April 24 that these men "are at a lower rate than comparable skills in other industries * * *. The figures we have on the differential range from 40 cents an hour to 60 cents."

The skilled railroad shopmen have been and are being drastically squeezed by lagging pay and rising costs of living; that is why they marked "Yes" so overwhelmingly on their strike ballots.

As for the laborers we represent, their pay is even less. Moreover, the railroad shopmen received a wage last year of only about 3 percent; as you know, consumer prices rose last year by 3.3 percent.

The railroads would like you to think that we who represent the railroad shopcrafts are a handful of stubborn men, bent on making trouble. That is simply not true. There is a wide unrest in this country today.

I know you are conscious of it. And this unrest is not limited to college students, or Negro slumdwellers, or peace marchers. It is very, very widespread among the railroad shopmen who see frustration at every turn in their effort to gain the pay they deserve and need to support their families.

We, their leaders, sincerely want to negotiate a fair settlement of this dispute. We have tried to negotiate one. We are still trying. But the railroads refuse. They seem to think they hold the whip hand—as indeed they will, if you deprive us of our only economic weapon.

The President on January 28, 1967, appointed an Emergency Board in this dispute, which issued its report and recommendations on March 10. The members of that Board were no doubt well-intentioned gentlemen, but their recommendations were inadequate and in important respects impractical.

Probably the worst aspect of those recommendations was the Board's proposal for a "job evaluation study" of a kind which would be long and costly, which would probably take no account of the "custom"

nature of much of our work, and which, we were told, might well result in cutting some of the pay rates.

How could we possibly, after setting out to get a very badly needed pay increase, come back to our people with an agreement cutting some of the rates? We could not go along with that.

After the Emergency Board's report the chief management negotiator told us if we could make him a serious settlement proposal he would give it profound consideration. We responded positively to this request.

We cut back substantially on our original requests and on March 29 submitted our new proposal. It was rejected by management within 5 minutes—that was the amount of "profound consideration" that it got.

Management then promised a counterproposal at the next meeting. At that meeting, held on March 31, they made no specific counterproposal. Nor did they do so on succeeding days.

Meanwhile, as you know, we set a strike date for April 13, Congress forced a postponement for 20 days, and the President appointed three special mediators headed by Judge Fahy.

Between April 14 and April 22 we met every day and sometimes twice a day with these three Presidential mediators, in a prolonged and intensive effort to settle this dispute. During that period we made a second cutback in our original proposals.

At the request of the panel, we modified our proposals and offered to settle for a 6½-percent general pay increase plus 12½ cents inequity increase for the skilled men, both as of January 1, 1967; and a further 5-percent general increase plus a 12½-cent inequity increase for the skilled men, both as of January 1, 1968; plus 3 weeks vacation after 10 years and guaranteed holiday pay for the eight holidays already in our contracts.

At no time have we received from the railroads any firm offer on which to settle this dispute.

The Mediation Panel, to our regret, made a proposal to both sides on April 21 that was substantially less favorable than our own proposal. "We cannot say our proposals contain precisely the correct figures," the Panel conceded, but they affirmed that "our terms are reasonable and not unjust."

Their pay proposal called for a 6-percent general increase to run for 18 months from January 1, 1967, to June 30, 1968, plus a "down payment" on the skilled men's pay inequity of three 5 cents adjustments, as of April 1, 1967, October 1, 1967, and April 1, 1968.

The President's Panel also made two other important recommendations: That the "job evaluation study" idea be dropped out of the settlement, and that we be free to negotiate for improvements on other money items or on rules during the contract period. We were glad to accept these last two recommendations, but we found the Panel's pay proposals inadequate and the 18-month length inadvisable.

The railroads also rejected the Panel's proposals, taken as a whole. When the railroads finally held a bargaining session with us on April 25—the first one since March 31—their chief negotiator told us they would consider a general 6-percent pay increase for 18 months, but he said they would give consideration to only one 5-cent inequity increase for the skilled men and he tied that to further adjustments in the pay rates, upward or downward, based on a job survey.

When we informed the management side that we considered the 6 percent for 18 months inadequate as a general wage increase, they abruptly broke off the talks and they have not renewed them since.

That is the record. Over this whole period of nearly a year, I do not believe the railroads have negotiated with us in good faith. They have wanted to settle on their own terms or not at all. They have tried to provoke a national strike call, hoping that you in Congress would pass a law depriving all railroad workers forever of their right to strike.

I should like now, if I may, to answer some of the carrier propaganda you have been hearing and at the same time explain why the Fahy mediation panel's proposals are not as favorable s they may seem on the surface.

First, the railroads claim that political pressures force them to accept settlements beyond those recommended by emergency boards. But in the present dispute the proposal made by the President's Mediation Panel is, in fact, no escalation at all of the Emergency Board's recommendations.

It may appear to be so on the surface, but it is not. I quote the Mediation Panel's report to the President on April 22: "The Panel believes that this proposed settlement is not inconsistent with the Emergency Board report. . . ." I think that you and we and everyone else can take the word of these three mediators—Judge Fahy and Professors Taylor and Dunlop—that their recommendations, though phrased differently, are in line with what the earlier Emergency Board had in mind.

Now, gentlemen, the railroads said they accepted the Emergency Board recommendations—but then later they rejected the Mediation Panel's recommendations, despite the similarities. Do you call that good faith collective bargaining?

Of course, there was one very significant difference between these two sets of recommendations.

The Emergency Board wanted a "job evaluation study" set up in a way so that the railroads could get some of the pay rates cut. The President's Mediation Panel threw that out.

As Judge Fahy told the Senate Labor Committee:

> . . . the 15 cents which we suggest as a substantial beginning (on closing the skilled shopmen's pay inequity) does not cause the carriers to run any serious risk of having to overpay anyone.

But the carrier negotiators keep insisting on a joint job study that might cut some of the pay rates. Clearly we could never agree to that, as our members deserve and expect a substantial pay increase, not a reduction in their rates. Do you think it is good faith bargaining for the railroads to demand that of us, at this late date?

The railroads have not seriously been trying to settle this dispute. They have been trying to goad us into setting a strike date, and then goad you into passing a law taking away our right to strike.

A significant report on this appeared in the Wall Street Journal for April 6, 1967, as follows:

> Railroad sources in Chicago said carrier officials met yesterday with their lobbyists to form strategy. Their current plan involves introduction of a "finality" bill to abolish strikes under the Railway Labor Act, which covers airlines as well as railroads.

This meeting of the carrier officials and their lobbyists to plan a law took place on April 5—and what happened after that? The railroads refused to make us the counterproposal they had promised on March 29.

Our strike call, set for April 13, was postponed; the Presidential Mediation Panel was appointed; the Panel made its recommendations—and the railroads rejected them, even though these recommendations were so similar to the Emergency Board recommendations they claim to have accepted.

The railroads then held on negotiating session with us, suggested terms they knew we could never accept—and then walked out. The railroads then began publishing big newspaper ads headed "Countdown to Chaos," calling for a compulsory arbitration law. They began flooding Members of Congress with similar propaganda. That is how the railroads have behaved since that April 5 meeting with their lobbyists. The record seems plain: railroad managements have decided they want a law, not a settlement.

A second propaganda claim by the railroads involves the question of "pattern" settlements. They say they have settled on a "pattern" basis with unions representing over 70 percent of their employees; they imply that this "pattern" is a 5 percent 1-year pay increase; and they say, to quote a recent statement by their chief negotiator: "If we violate the tradition that preferential treatment will not be given to any union * * * it will completely destroy collective bargaining."

There are several things wrong with this argument. First, the railroad shopmen are represented by their own organizations; no other labor union speaks for them and none can set a "pattern" for them.

Second, to my knowledge, no other railway labor union objects in any way to the shop craft unions' willing the best possible settlement for the men we represent.

Third, the supposed 1-year 5-percent "pattern" does not exist. Three of the railroad operating unions settled their 1966 movements on a basis of 5-percent retroactive to last August 12 and running through next December 31, plus other improvements. Four nonoperating unions settled on a basis of 5 percent as of last January 1, plus another 2½ percent next January 1 to run through June 30, 1968, plus an inequity adjustment on away-from-home expenses that may bring quite substantial payments.

Another nonoperating union settled on a basis of 5 percent as of last January 1 for 1 year, plus an inequity adjustment on away-from-home expenses. Thus, there is considerable variety in the settlements made; and two unions, in addition to the shop crafts, have not yet settled.

(A third week of paid vacation after 10 years was also won by the unions that settled, and apparently the railroads are willing to grant our members that.)

Both the Emergency Board and the President's Mediation Panel in our dispute gave much weight—far too much weight, we think—to the "pattern" approach.

The Emergency Board proposed a 2-year wage agreement with a 5-percent general increase on January 1, 1967, and a wage reopener on January 1, 1968. The Mediation Panel proposed a 6-percent general increase from last January 1 to run until June 30, 1968.

79-205—67——18

The Panel's 6-percent proposal in terms of total money payments over the 18 months comes out to just about the same as the 5 percent plus 2½ percent negotiated by the four nonoperating unions—as the Mediation Panel was well aware.

However, on June 30, 1968, it would leave our members 1½ percent behind the four nonops—and doubtless even further behind the other organizations that will negotiate new increases to take effect next January 1, for they certainly are not going to settle for a 1968 pay increase of 2½ percent.

As I said a few minutes ago, we do not subscribe to the "pattern" approach. But the railroad negotiators most certainly do. It is easy to foresee that if we settle now for the 6 percent 18 month increase proposed by the Presidential mediators, the railroads will raise a great fuss in the summer of 1968 to try to make us settle the next round for the same percentage "pattern" as the other unions then settle for—whereas that would in fact leave our members at least 1½ percent behind the others.

Thus, this 18-month proposal holds the seeds for considerable disagreement in the summer of 1968. We think the mediators made a mistake in proposing this and that a 2-year wage agreement running through the full year 1968 would be preferable. Such an agreement should carry one general increase as of January 1, 1967, and a second general increase as of January 1, 1968.

So far I have focused on the general wage increase, because even the most extreme advocates of the "pattern" approach—even the President's Council of Economic Advisers, who want to impose a single general "pattern" on the whole Nation—conceded that special inequity adjustments fall outside the scope of the "pattern."

The Emergency Board in our current dispute also clearly recognized this, as regards the inequity adjustment for the skilled shopmen. The Emergency Board stated, under the heading "The Wage Compression of Skilled Shop Craft Employees":

> An equitable adjustment beyond the pattern settlement would not violate existing Administration policy against inflationary wage increases because the type of adjustment here sought is compatible with the principles of wage equity stated by the Council of Economic Advisers. (Report, Emergency Board No. 169, page 9.)

Surely, considering that this inequity for the skilled shopmen now admittedly stands between 40 and 60 cents an hour, our proposal for a "downpayment" of 12½ cents in 1967 and 12½ cents in 1968 toward closing the inequity is not unreasonable.

Yet the only hard cash money the railroads have offered to consider on this so far, after nearly a year, is one thin nickel. I suggest to you again that the railroads up to now have not wanted to settle this dispute. They want a law, not a settlement.

I close with one final thought: If the Congress will only make plain to the railroads that their employees still have the fundamental democratic right to strike—if you will only let us keep up our strike notice for 12:01 a.m. on June 19—then the railroad negotiators will finally at long last, come and bargain seriously with us, and we shall soon settle this dispute fairly and no railroad strike will take place.

The way to accomplish this is to reject House Joint Resolution 559 and any similar legislation aimed at abolishing our right to strike.

If you disagee with our plea, however, and do insist on curtailing our right to strike, the only fair way to do so is through Federal seizure of the railroads until this dispute is settled.

Thank you for the privilege of addressing you, and for your kind attention.

(The chronology of meetings referred to follows:)

CHRONOLOGY OF MEETINGS SINCE 1966 WAGE-RULES MOVEMENT REACHED NATIONAL LEVEL, PREPARED BY THE AFL–CIO RAILWAY EMPLOYEES' DEPARTMENT, MAY 19, 1967

DIRECT NEGOTIATIONS

September 28, 1966, Washington, D.C. Met Carriers' Committee for 45 minutes.
September 29, Washington, D.C. Met Carriers' Committee for 40 minutes. Mr. Wolfe was not with the Committee.
October 11, Chicago, Ill. Met Carriers' Committee 1 hour and 55 minutes. Mr. Wolfe was not with the Committee.
October 12, Chicago, Ill. Met Carriers' Committee for 40 minutes.

MEDIATION SESSIONS

October 19, Chicago. Met Mediators O'Neill and Farmer for 1 hour and 55 minutes.
October 20, Chicago. Met Mediators O'Neill and Farmer for 1 hour and 10 minutes.
October 24, Washington. Met Mediators O'Neill and Farmer for 1 hour and 20 minutes.
October 25, Washington. Met Mediators O'Neill, Farmer and MacSwan for 50 minutes.
October 27, Washington. Met Mediators O'Neill, Farmer and MacSwan for 1 hour 45 minutes in the morning and again for 25 minutes in the afternoon.
December 8, Washington. Met Mediators O'Neill and MacSwan for 40 minutes.
December 20, Chicago. Met Mediators O'Neill and MacSwan for 2 hours and 20 minutes.

EMERGENCY BOARD NO. 169

February 1–9, 1967. Hearings in Washington, D.C.
March 15, Washington. Met Board Members Ginsburg and Dugan for 1 hour 50 minutes.

AFTER EMERGENCY BOARD REPORT

March 22, Chicago. Met Carriers' Committee for 40 minutes.
March 28, Washington. Met Carriers' Committee for 55 minutes.
March 29, Washington. Met Carriers' Committee for 15 minutes.
March 31, Washington. Met Carriers' Committee for 10 minutes.

MEETINGS WITH LABOR DEPARTMENT OFFICIALS

April 6, Washington. Met Secretary Wirtz, Reynolds, Donahue and O'Neill for 1 hour and 10 minutes and again that day met Reynolds and O'Neill 1 hour.
April 7, Washington. Met Reynolds and O'Neill for 1 hour and 10 minutes. Met Secy. Wirtz for 1 hour and 15 minutes and later met Secy. Wirtz, Reynolds, Donoahue and O'Neill for 1 hour and 35 minutes.
April 8, Washington. Met Secy. Wirtz, Reynolds, Donahue and O'Neill for 1 hour and 10 minutes.

MEETINGS WITH FAHY PANEL

April 14, Washington. Met Fahy Panel and Carriers' Committee for 15 minutes. Met Fahy Panel separately for 2 hours and 5 minutes.
April 15, Washington. Met Fahy Panel for 1 hour and 20 minutes, and again that same day for 1 hour and 15 minutes.
April 16, Washington. Met Fahy Panel for 2 hours and 10 minutes.
April 17, Washington. Met Fahy Panel for 2 hours and 40 minutes.
April 18, Washington. Met Fahy Panel for 1 hour and 20 minutes and again for 1 hour and 25 minutes.
April 19, Washington, Met Fahy Panel for 2 hours and 50 minutes.

April 20, Washington. Met Fahy Panel for 2 hours and 20 minutes, and again for 20 minutes.

April 21, Washington. Met Fahy Panel for 1 hour and 25 minutes.

April 22, Washington. Met Fahy Panel for 1 hour and 30 minutes, and again for 10 minutes.

April 23, Washington. Met Fahy Panel and Secys. Wirtz and Boyd and O'Neill together with the Carriers' Committee for 25 minutes. Met the Fahy Panel and government officials for 35 minutes. Met the Carriers' Committee for 10 minutes. Met with Fahy Panel and government officials for 1 hour and 25 minutes.

SUBSEQUENT MEETINGS

April 25, Washington. Met Carriers' Committee for 40 minutes.

The CHAIRMAN. Thank you, Mr. Ramsey.

Mr. Friedel?

Mr. FRIEDEL. I want to thank Mr. Ramsey for bringing us up to date on the facts.

Can you tell us now whether you are negotiating at the present time?

Mr. RAMSEY. We are not.

Mr. FRIEDEL. Why not?

Mr. RAMSEY. Our last meeting with the carriers was April 25. I merely suggested to a spokesman for the group that the 6 percent for an 18-month period we considered inadequate.

The chief negotiator for the carriers immediately arose from his chair and stated, "That terminates the conference." He and his colleagues walked out of the room at the Statler Hotel and as far as negotiations are concerned, we have not heard from them since, officially.

Mr. FRIEDEL. Are you willing to sit down and negotiate now?

Mr. RAMSEY. We are always willing to sit down and negotiate and endeavor to reach a settlement. But there has to be, as was said the other day, two to tango.

Mr. FRIEDEL. I know it takes two to tango.

I am not particularly sold on this piece of legislation. On the other hand, we cannot afford to have a national railway strike. I know your economic point of view, that you should have a right to strike.

I am going to call on the railroads, too, and ask them if they won't immediately sit down and try to negotiate so we will not need any legislation, that we will have this settled before the deadline.

That is all I wanted to say, Mr. Chairman.

The CHAIRMAN. Mr. Springer?

Mr. SPRINGER. Mr. Ramsey, I think this is one of the better statements I have seen before this committee from an interested party concerning legislation. I want to see at this time if I can bring out where you think the parties lie now.

When Mr. Wolfe was before this committee a few days ago, I did get from him what he thought the positions of the parties were. What do you consider the railroads' offer to be as you understand it as of today?

Mr. RAMSEY. To the best of my knowledge, I would have to say actually Emergency Board 169's recommendation is the carriers' only solid proposal that we ever received, and that was on the basis that the carriers maintain they will accept that recommendation, whereas, they knew we rejected it.

Mr. SPRINGER. Can you tell me what you think that recommendation is so that we can see it here in dollars and cents?

Mr. RAMSEY. The recommendation insofar as wages are concerned is, of course, a 5-percent increase the first year, a job evaluation study, and they recommend that we withdraw all other proposals with the exception of the vacation proposal, which would be in line with the others, 3 weeks after 10 years.

In that recommendation, of course, Emergency Board 169 made no suggestion of any specific amounts that might be paid to erase the inequity that exists between the unskilled, semiskilled, and the more skilled employees. They merely recommended job evaluation.

Mr. SPRINGER. Substantially, then, if I understand you correctly, the railroads' offer is 5 percent plus job evaluation. I think Mr. Wolfe used the words "plus escrow to be agreed upon."

Would you say that is substantially the situation?

Mr. RAMSEY. Mr. Wolfe informed us when the subject was first discussed, after the Panel recommendation, that there was no reason to establish any escrow fund of any nature until job evaluation had taken place and a determination made as to how much was needed, if anything, and at that time, certainly, they would pay it, but they didn't need any escrow fund.

Mr. SPRINGER. Then it would be your position that it is 5 percent plus job evaluation?

Mr. RAMSEY. With the exception, as I said in my statement, that at our last meeting he said that in light of this 18-month recommendation from the Fahy Panel, they would consider placing in effect for a contract not to exceed 18 months an amount not to exceed 6 percent on the general wage increase, and that they would consider placing in effect the first 5 cents, and during the ensuing 120 days they would cause a job study to be made.

At the end of the 120 days, which the railroads consider adequate time, they would determine whether any more money was needed in connection with these inequities, or not. At that point, I raised a question, "Well, you are still thinking in terms of job evaluation and possibly lowering the rates on some jobs." He agreed that that was their thinking.

Mr. SPRINGER. Could you tell me what you believe is the brotherhoods' offer at this time?

Mr. RAMSEY. At this time our firm offer remains at 6½ percent on the general wage increase to be effective January 1, 1967, and, in addition, 12½ cents toward erasing the inequity and, effective January 1, 1968, an additional 5 percent on the general wage adjustment, the basic wages, with an additional 12½ cents toward erasing the inequity.

Mr. SPRINGER. That is substantially where you are at the present time; is that correct?

Mr. RAMSEY. That is correct.

Mr. SPRINGER. Could you give me this information: I would assume that since you have 5 percent and job evaluation, 5 percent is what they have offered in the way of an increase, outside of job evaluation. So I am taking 5 percent as the only thing that I have firm at this time.

What would your offer be in terms of percentages in the 2-year period over what it is as of January 1, 1967?

Mr. RAMSEY. You are referring specifically to the basic wage adjustment we are seeking?

Mr. SPRINGER. No. I am trying to get the overall percentage you are offering as against your present rate. As an example, and this is why I am trying to find out what your opinion is, Mr. Wolfe said it was 19 percent. Do you have an opinion on that?

Mr. RAMSEY. Over the 2-year period it would be something in that area.

Mr. SPRINGER. Turning to page 6, Mr. Ramsey, at the bottom of the page, you state, "After the Emergency Board's report, the chief management negotiator told us if we would make him a serious settlement proposal, he would give it profound consideration. We responded positively to this request. We cut back substantially on your original requests and on March 29 submitted our new proposal."

Could you tell me what that proposal was?

Mr. RAMSEY. That proposal was, on the basic wage adjustment, 7 percent, effective January 1, 1967, and on that same date, January 1, an additional 15 cents per hour for all skilled employees.

On January 1, 1968, an additional 5 percent on the basic increase for all employees, and on that same date an additional 15 cents per hour for all skilled employees.

Mr. SPRINGER. That is the 2-year period?

Mr. RAMSEY. Yes, sir. We have proposed that all the way.

Mr. SPRINGER. As I understand it, now, it is different.

Mr. RAMSEY. We lowered the 7 percent to 6½ percent on the first basic increase, and lowered the 15 cents to 12½ cents.

On the second proposed increase effective January 1, 1968, 5 percent remains the same, but the 15 cents was again cut to 12½ cents.

Then we also proposed that effective January 1, 1967, the carriers would guarantee to pay for all eight holidays that are presently named in the agreement, and to grant us the 3 weeks vacation after 10 years, which has been obtained by the others.

Mr. SPRINGER. The 15-cent proposal was as of March 29. Then when the second mediation board between April 14 and 22, had you reduced it to 12½ cents and 6 percent?

Mr. RAMSEY. That was before the Fahy Panel.

Mr. SPRINGER. 6½ percent and 12½ cents, and then 5 percent on January 1, 1968, and 12½ cents?

Mr. RAMSEY. Yes, sir.

Mr. SPRINGER. Since that time, has there been any other proposal on either side?

Mr. RAMSEY. Not solid proposals.

Mr. SPRINGER. Nothing that you could say in the nature of just what it would be on either side?

Mr. RAMSEY. No, sir.

Mr. SPRINGER. So this is, in effect, where you are today?

Mr. RAMSEY. Correct.

Mr. SPRINGER. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Macdonald?

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Ramsey, I would like to echo what has already been said. I think this is the most clearcut statement I have seen. I think it is especially interesting and informative.

Very important is the chronology of the meetings you have had with the railroads and the duration of the meetings with them during this period.

As you and I know, in most industries in the country, if one party in a bargaining settlement feels that the other party is not bargaining in good faith, he can then go to an impartial Government board and make a formal declaration that the other party is not bargaining in good faith. If upheld, of course, they can then strike with the approval of the Government.

I was wondering whether or not any such machinery is open to you.

Mr. RAMSEY. Such machinery is not available under the Railway Labor Act. I believe you are referring to outside industry specifically and actions under the Taft-Hartley Act.

Mr. MACDONALD. Right, the National Labor Relations Board being one way. I was thinking if you went to court, for a concrete example, if somebody was looking for an injunction and pleaded that the other party had not bargained in good faith, would this not stay your injunction or the injunction that might be coming against you?

Mr. RAMSEY. I am not an attorney, Mr. Congressman. I am not in a position to pass upon that question.

Mr. MACDONALD. In essence, the thrust of most of your testimony is that the railroads have not bargained in good faith. Am I correct?

Mr. RAMSEY. I think the record proves the fact, the chronology of meetings of short duration. In fact, if I might add this, I have spent 10 years on this executive council and have watched the progress of negotiations both on an expanded basis where there were as many as perhaps 17 organizations all bargaining at the same time, where we have had 11 bargaining at the same time, and now with just the shop-crafts bargaining as the railway employees department, and during that entire period, sir, I have never seen negotiations that even slightly resemble the negotiations that would take place in outside industry where there were actual offers, counteroffers across the table, and re-writing of language right there, and finally an agreement being reached. I have never seen it, sir.

Mr. MACDONALD. I think that is certainly something the committee will take into account.

It seems that the railroads settled with some of the other unions and not the shop unions. Can you tell me if there is any reason for this, that they would settle with the operating unions and yet have not shown any evidence that I can see, anyway, of being willing to come to an agreement with the shop unions?

Mr. RAMSEY. I can best describe it from my experiences in the War Labor Board days of the Second World War, and in my service on the Wage Stabilization Board during the Korean situation, here in Washington.

That was what was then classified a rare and unusual case that we had, where, due to these long years of across-the-board increases—and, again, it takes two to tango—those across-the-board increases destroyed any proper differential that may have existed between the highly skilled and the lesser skilled.

Then we arrived at this plateau of this wide inequity. We feel fully justified, in fact, in seeking the original 20 percent wage adjustment. We would have talked about how it should have been divided up.

Our mechanics today, at $3.05 an hour, and less—why, you can't even hire a good janitor for that today.

Mr. MACDONALD. Thank you very much.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. Mr. Ramsey, I would agree with some of my colleagues that this is a fine statement. There is, however, marked similarity between the charges that you make and those that management makes if you just reverse the names in here as to who are the good guys and who are the bad guys. It is hard to tell who is on what side.

Going through this, Mr. Ramsey, I get the impression that you, representing the shopcrafts, are vigorously opposed to the President's bill, or whatever this bill is before us, because it would rob your shopcraft members of the right to strike. That is your basic position.

Mr. RAMSEY. That is correct.

Mr. DEVINE. You say on page 15 of your statement that you are convinced that if the Congress does nothing, if the Congress does nothing, no strike will take place. Can you give us any assurance of that?

Mr. RAMSEY. Well, of course, in bargaining, corporations the size of the railroads make it difficult for a labor representative to say that they would change their position. As I have stated in this statement, in my opinion, and in the opinion of my colleagues here, the railroad corporations feel, that they enjoy the position of holding the whip hand at the present time, and that they will get legislation.

Mr. DEVINE. Your alternative, of course, is Government seizure.

Mr. RAMSEY. That is right. I lived through some of that previously.

Mr. DEVINE. I notice you said this bill of the President is a long step toward dictatorship and is designed to increase the profits of the private railroad corporations.

At the bottom of page 3 you say that the shopcraft organizations are asking for a 20-percent general pay increase effective January 1, 1967; a cost-of-living escalator clause; increased overtime rates; differentials of 18 cents an hour for the swing shift and 25 cents an hour for the night shift; substantial improvements in the vacation and holidays rules; paid 30-minute lunch periods, and pay for jury duty services.

Those are the basic demands of the shopcrafts?

Mr. RAMSEY. Those were the original demands.

Mr. DEVINE. The original demands; yes.

I would ask you this question: In return for what?

Mr. RAMSEY. In return for what?

Mr. DEVINE. Yes.

Mr. RAMSEY. A day's labor, each day that an employee works. That is what we want it for.

Mr. DEVINE. These are asking for additional concessions on the part of railroad management. What is labor going to do in return other than what they are already doing today? Are they going to perform more efficient service? In return for what?

Mr. RAMSEY. I think, Mr. Congressman, the record will definitely convince you that every employee of a railroad, including the shopcrafts, with their reduced forces and with the railroads hauling greater tonnage than they ever hauled before in the history of railroading, that each man's productivity has increased radically and far beyond the general increase in productivity.

Mr. DEVINE. So it is increased productivity?

Mr. RAMSEY. Increased productivity.

Mr. DEVINE. More responsibility?

Mr. RAMSEY. Yes, increased productivity with the diesels and with the equipment that is now used in cars and so forth, roller bearings and so forth, to be repaired. It calls for high precision work over and beyond what it was 40 years ago.

Mr. DEVINE. Do you look upon collective bargaining generally as a one-way street?

Mr. RAMSEY. Never.

Mr. DEVINE. I asked that question because on page 6 of your statement you point out the very strong objections that the shopcraft unions have to the recommendation for a job evaluation study because you say, "It might well result in cutting some of the pay raises."

Mr. RAMSEY. That is an admitted fact. The organizations, all who hold collective-bargaining agreements in outside and diversified industry, have had experience with so-called scientific job evaluation, and always wound up on the short end of the horn.

Mr. DEVINE. But you feel that any negotiations should always result in an increase in pay.

I am fully aware of this particular document put out by the machinists. If it would show a nonpartisan type of a study that certain areas should not receive the pay they are already receiving, you feel that that should not be taken into consideration; is that true?

Mr. RAMSEY. As far as that goes, if you will read Mr. Ginsburg's interpretation of what they were talking about in their Emergency Board report, and I furnished a copy of the transcript of that meeting, which Under Secretary of Labor Reynolds vouches for being very accurate, you will find that Mr. Ginsburg and his colleagues make it very clear that they were merely ducking the question of what should be done in the treatment of this inequity that exists and, therefore, they just adopted a suggestion from the Department of Labor, "Just wish upon them job evaluation."

Sir, the industry does not lend itself to job evaluation as you might know it in the plant, factory, or whatnot, because it is not highly repetitive work. Practically every job performed, whether it be on a diesel locomotive or on a car, or on building maintenance, is actually a custom job from day to day, and changing from hour to hour.

So the industry does not lend itself to job evaluation. They have had the opportunity for 40-some years to do their labor grading in connection with the jobs that develop. We have had our classifications of work for more than 40 years.

Mr. DEVINE. On page 14 of your statement you say:

> Admittedly the inequity for the skilled shopmen stands at between 40 and 60 cents an hour.

That is admitted by whom?

Mr. RAMSEY. By the Fahy Panel. They took their figures I believe from oral conversation with them, from the overall figures from the Department of Labor, which includes anything and everything.

Mr. DEVINE. Thank you very much.

The CHAIRMAN. Mr. Moss?

Mr. Moss. I have just a very minimum of questions, Mr. Chairman.

I want to compliment you, Mr. Ramsey, for your statement. I find it an important contribution. The supplemental material I think will also be helpful.

Mr. RAMSEY. Thank you.

Mr. Moss. On the matter of what goes into bargaining between an employee and an employer, one important item of consideration should be the rates of compensation for similar skills in other industries, shouldn't it?

Mr. RAMSEY. I would agree with you, Congressman, that that consideration must be given. Where it is a matter of rates in the transportation industry, then we should look at our competitors in the transportation industry, particularly the interstate operations of airlines, trucking, and so forth.

Mr. Moss. I had difficulty getting that information. I think, however, with the concentrated energy of my staff, doing much telephoning, we succeeded in developing some information which I placed into the Congressional Record at the time of debate on the proposal to extend for the 47 days the period during which efforts would be made to bring about settlement of this dispute.

You can't take any one industry and break it out of the community and say that it is separate and apart. It competes in the labor market and must avail itself of the services that are in that community. It must pay whatever should be paid for the services.

It is a very complex group of factors that go into determining what rates of compensation should be; isn't it?

Mr. RAMSEY. I would say that would apply to factories, et cetera. I wouldn't say it would specifically apply to transcontinental operations. We have to have, Mr. Congressman, standard rates, very standard rules, or there just wouldn't be room for agreements.

Mr. Moss. My point is that you can't just look at the increased productivity as the only criterion for wages.

Mr. RAMSEY. No, sir.

Mr. Moss. For one thing, if we applied that rule, we can look at the increased cost of transport. I don't know whether that means that we get more tons for the tons that we buy. I don't think we do. There is increase in the cost of transportation. There are increases in the cost of everything.

As long as I can remember, costs of most items, and there are few exceptions, have been on a gradual upgrade, whether it is wages, services, or whatever it might be. I think in many instances profits also share that characteristic.

So it isn't a simple matter of defining one thing as being the essential in determining whether or not an increase should be granted.

Mr. RAMSEY. That is correct.

Mr. Moss. Thank you.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Thank you, Mr. Chairman.

I would like to again refer to page 6, where you state you could not come back to your people with an agreement cutting some of the rates.

Are you fearful of the reaction of your members rather than merits of the adjustment that is involved?

Mr. RAMSEY. No. 1, Mr. Congressman, we don't believe there is any merit to job evaluation in this particular industry.

No. 2, yes; we would certainly have a reaction from our membership that might destroy the union insofar as this industry is concerned, and these other unions, because the rates are already so low for skilled people that they are absurd in the present age.

Mr. NELSEN. Isn't it possible that a job evaluation would indicate that some of the crafts are below the level that they should be, and some might be adequately compensated, so that if an increase in a new contract were to be negotiated, there might be some who will need to move forward less rapidly than others?

Mr. RAMSEY. It has been my experience, if I may make this comment, Congressman, that corporations, and even small companies, are not willing to go out and pay to these engineers, consulting engineers, for a small company $100,000 and big corporations millions of dollars, to have job evaluation applied to their industry without the full expectation of recovering the money invested five times over, and very rapidly, which has been our experience, whether it is in aircraft—and I am talking about airframe plants—or whether it was in atomic energy, or where it might be.

I have participated in a lot of programs where it was already foisted off on us. All we ever got was reductions.

Mr. NELSEN. The point I would like to make is that without question, in my judgment, some of the machinists are underpaid. I would like to see in a job evaluation some adjustment in that direction. But it is also a possibility that advances in some areas might need to be greater than in others.

Turning to page 9 in your statement, you state:

> First, the railroads claim that political pressures force them to accept settlements beyond those recommended by emergency boards.

I asked Mr. Wolfe if there had been political pressure, recalling what happened in the airline strike, where repeatedly those who appeared before us indicated pressure from high sources. They never named them. Has there been pressure on the railroads by political sources to go higher or lower or move in any direction?

Mr. RAMSEY. That is their statement, Congressman. I don't know. I know what happened in the airline dispute because I was there.

Mr. NELSEN. Yes; I recall.

I would also inquire as to your statement on page 11. You refer to the President's Mediation Panel. Did I understand that the President's Mediation Panel came close to the objectives that you seek?

Mr. RAMSEY. I wouldn't say so, sir.

Mr. NELSEN. You would not say so?

Mr. RAMSEY. No. As an example, what they suggested for an 18-month period was a 6-percent wage adjustment. As I pointed out in my statement here, as far as the overall earnings for the 18-month period, at 6 percent versus the 5 percent that was applied to another group, plus 2½ percent, the aggregate earnings for that period of time would be within shooting range.

But, at the same time, the rate for a mechanic, the hourly rate, would lag 5 cents an hour over what he would have obtained on the 5 and 2½ percent if we were willing to accept anything of that nature.

Mr. NELSEN. I notice that you mentioned that the Emergency Board recommendations and the President's Mediation Panel were close as

far as objectives are concerned. You do, however, feel that the President's Mediation Panel recommendations at the first step had some merit. But you are looking beyond the first step, as I understand it. Is that right?

Mr. RAMSEY. The first step?

Mr. NELSEN. Yes. The first escalation. You are looking ahead to the 18-month period.

Mr. RAMSEY. Do you mean the five, five, and five they recommend?

Mr. NELSEN. Yes.

Mr. RAMSEY. We thought it had some merit; yes, sir.

Mr. NELSEN. Coming to the seizure part of it, this is something I think we all look upon with some fear. If you are to retain your right in the area of collective bargaining, wouldn't you have lost it if there were seizure? Wouldn't everybody have lost their right of negotiation?

Mr. RAMSEY. We would lose it for the period of the seizure; yes, sir.

Mr. FRIEDEL (presiding). The time of the gentleman has expired.

Mr. NELSEN. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Dingell.

Mr. DINGELL. Thank you Mr. Chairman.

I would like you to tell us, Mr. Ramsey, whether the communication received by myself and other members of this committee from the Railway Labor Executives Association, signed by Mr. G. E. Leighty, dated May 19, 1967, represents generally your views and whether the proposal with regard to movement of essential shipments on a voluntary basis by the unions and management represents your viewpoint, and the viewpoint of the organizations you represent.

Mr. RAMSEY. Are you referring to the letter he sent the other day?

Mr. DINGELL. Yes. That was the letter of May 19, enclosing the statement, reiterating it rather substantially. It was the letter addressed to Chairman Staggers, of the House Committee on Interstate and Foreign Commerce.

Mr. RAMSEY. I think Mr. Leighty as chairman of the RLEA presented the views of all of the railway unions in that statement, and his analysis of how it could be accomplished, what could be moved and would be moved.

Mr. DINGELL. In other words, the statement, you believe, would be and could be carried out were the situation to arrive at that point?

Mr. RAMSEY. I would have to admit, of course, that it would take a little work and a little judgment on the part of the responsible parties to work out a complete program.

Mr. DINGELL. Now with regard to some other matters before this committee, I believe Mr. Leighty agreed at the time he was present the other day to submit to this committee statements with regard to the relative wages and wage scales between the various crafts in the railroad industry and similar positions and similar crafts in other industries.

I would assume that there is nothing that you would choose to add or could add to the submissions that he will be making in response to the question by me and other members of the committee?

Mr. RAMSEY. Mr. Dingell, I haven't had access to what Mr. Leighty might intend to furnish to you. We may see it sometime during the day, but I would advise you this, and I think Mr. Leighty made this very clear the other day in his statement, that he, of course, as chair-

man of the RLEA, can and does represent the railway labor movement in many proceedings; that he was not and is not one of the participants in this particular dispute.

Mr. DINGELL. I am aware of that. I just indicate that there is nothing you could add with regard to the submission that he will be making to this committee on those particular points. If there is something you would like to add to what he is submitting, I would like to have it submitted.

Mr. RAMSEY. I don't know. Has he already submitted it?

Mr. DINGELL. To my knowledge, he has not.

Mr. RAMSEY. I didn't think so.

Mr. DINGELL. Now, with regard to the question of seizure, you mentioned this possibility. I wondered what the options before us really are. One is to have a strike. One is to have a limited strike. One is to have seizure. One is to have the administration's proposal. One is to have compulsory arbitration. Are there any other options before this committee that occur to your mind?

Mr. RAMSEY. To place the railroads in a position where they would have to sit down and negotiate as they would in outside industry and try to come to an agreement.

Mr. DINGELL. I am trying to find out what options you feel are before this committee among the various courses that might be available to us. Is there anything else to your mind above and beyond those options I have mentioned?

Mr. RAMSEY. I don't have any at the present time.

Mr. DINGELL. Thank you.

Mr. FRIEDEL. Mr. Keith.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. Ramsey, in your statement, you said that more sophisticated maintenance work is performed by your members on the railroads' new precision equipment. Wouldn't this equipment require less skill on the part of other employees? It doesn't ring true when you say that in this gigantic industry there is no place for job evaluation. It seems to me that statement is outdated.

If you are going to move to more precision equipment, shouldn't there be job evaluation?

Mr. RAMSEY. We don't happen to agree with your way of thinking, Mr. Congressman. We have had a great deal of experience with job evaluation in some highly technical industries. All we as representatives of labor have ever seen is a result that certainly was not in keeping with the wages that were properly necessary for any of those jobs. They downgrade jobs. That is all they do.

Mr. KEITH. I understand that some jobs have to be downgraded occasionally. If you had a girl who did her bookkeeping by hand and you no longer needed that girl because you had more sophisticated equipment, you would say, "Look, I am sorry, but you are not contributing as much as you did. Either learn some new skills or you will have to stand still for a while."

It seems to me that in connection with earlier railroad negotiations, the railroads have agreed to pay the penalty to keep these people on at the present wages or with modest increases.

It seems to me that in this mechanized society in which we live, there must be a lot of jobs requiring less skill rather than greater skill.

Mr. RAMSEY. That is where you think in terms of production shops.

Mr. KEITH. I can think of it in connection with my office, in connection with what I read in the press concerning the railroads. I think the public, generally speaking, feels that you have made some mistakes in the past when you have insisted on certain numbers of firemen, certain hours of work, certain conditions, certain pay. I think you have discredited the other merits to your argument by sticking to such old-fashioned ideas that a job evaluation isn't a sensible part of this whole problem.

I might say that in your statement you make reference to the congressional offices having been flooded by propaganda from management. I have yet to have the first railroad executive or representative of railroad executives call on me in my office in connection with this whole matter. I have had in my office visits from, and very effective presentations on the part of the shop unions, and I am very friendly to the trade unions in my district.

As you probably know, I supported the repeal of 14(b) and other progressive legislation at the State and National level. But this, it seems to me, is exactly the situation faced the Governor of Massachusetts when the labor unions were demanding this, that, and the other thing. He said, "None of it until you clean house in these abuses."

It would seem to me that there should be some kind of an arbitration panel that would take this chore away from management and away from labor, and truly arbitrate on the question of job evaluation.

Mr. RAMSEY. Mr. Congressman, I will tell you this, that as far as mechanics are concerned in the railroad industry, I would voice this opinion: If job evaluation by law or otherwise is ever foisted off on the mechanics in the railroad industry, if they can't strike you will have mass resignation. Nobody can stop that.

Mr. KEITH. I think you can show some leadership here and point out to your membership that these panels have the kind of people that will defend the contribution that these mechanics make to the overall operation of the railroads. I would think you can do it. I know how expensive mechanics are, and I am willing to pay them if they can do a good job on the equipment that I use in my home and in my business, in my personal life. I expect to pay for it in increased costs of transportation as I do in increased costs for improved services in other sectors of our economy.

Mr. RAMSEY. Don't you think, Mr. Congressman, that where the railroads did not seek job evaluation and where we did not seek it, that the Emergency Board went a little bit off the beam when they decided it?

Mr. KEITH. No. I think, that in the public interest, they are seeking some new ground that both of you can buy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Van Deerlin.

Mr. VAN DEERLIN. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Ramsey, I have one thing that keeps moving through my mind. I heard it when we had the first railroad case a few years ago, and I heard it in the airlines case, and now I hear it again, this phrase about bargaining in good faith.

I am no expert in this field, but you are. Management also has its experts in this field. The thing that keeps bothering me, that causes

me to lie awake nights thinking about it, is this "bargaining in good faith" business. Just what do you mean, and the other people who have testified in other disputes mean when they say one party is not bargaining in good faith?

Mr. RAMSEY. Mr. Congressman, have you had the opportunity to glance at this chronology?

Mr. CUNNINGHAM. Yes.

Mr. RAMSEY. Of course, you will notice there was only a total of four dates on which we met the carriers in direct negotiations, alleged direct negotiations, I might say, for a total of 4 hours for the purpose of discussing our proposal and their counterproposal. We talked about bargaining in good faith, but even their chief negotiator failed on two out of the four meetings to even be present.

Do you think they had any intention of settling anything? No; they had no intention until after they had established what they maintain is a pattern. Then, as in a previous move, after they had an agreement with one of the smallest organizations of the nonoperating, then they insisted that was the pattern and that everyone had to take that.

As Senator Morse so graphically portrayed to the carriers, "You are saying that when one individual organization, regardless of how small it is, makes a settlement, he has negotiated for all of the organizations, all 23 or 24 organizations?" He pointed that question.

"Well, yes, as far as the railroads are concerned, that is what it adds up to in substance."

So, they got away with a 5-percent deal with somebody and everybody else is supposed to take it, regardless of how rare and how unusual your situation is. We can't buy that as good faith bargaining.

Mr. CUNNINGHAM. I want you to know that I have an open mind. I wanted to know what you had in mind and what the other people had in mind when they used this phrase.

It would indicate to me, and if this is not your feeling I would like to have you say so, that in this instance the issues are so fundamental to you and to management that you are steadfast in each of your positions. Therefore, would that be a reason why you might meet for a few moments and you can see that neither side is going to give, the issues are so fundamental, so basic, that the meetings terminate within a short period of time?

Mr. RAMSEY. The unions never terminated a conference.

Mr. CUNNINGHAM. I didn't say that you did, sir

Mr. RAMSEY. As we said here earlier, it takes two to tango. When they got up and left the ballroom, there wasn't anybody to tango with.

Mr. CUNNINGHAM. We have this list of meetings and I do see that some of them were very short. I am wondering if this dispute is more than the matter of wages. There is a basic principle involved as far as your union is concerned and as far as management is concerned, is there not? You may come together for 10 minutes and you see that neither one of you are going to give, so the meeting is broken off. Whether that is not bargaining in good faith, I will leave to somebody else's judgment. I am just trying to find out more of what is meant by the term "bargaining in good faith."

I think both sides are sincere and honest people. I think they must want to bargain in good faith, but maybe the issues are just too basic, so that neither will budge.

Mr. RAMSEY. I don't think that. I think that bargaining in good faith calls for offers and counteroffers, back and forth, as earlier described, until you reach that agreement round. Then you are in agreement and it is finalized, and that is it.

But when you approach the bargaining table and find the other party has their feet firmly set in concrete—take it or leave it—you can't do much bargaining.

Mr. CUNNINGHAM. Thank you very much, sir.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Ramsey, I have not read or at least I am not familiar with the specific names of the unions or crafts involved in this particular strike. For the record, I wish that you would submit to this committee the names of the unions, the crafts, the employees involved in the railroads, which would be included for the record. I note that you represent the executive council of a number of the railroad unions which negotiates the railroad shop crafts. You appear in their behalf.

Mr. RAMSEY. That is the entire group, sir.

Mr. PICKLE. The specific names of the specific unions involved?

I will ask that the information be submitted for the record.

Mr. RAMSEY. The names are set forth on the first page of my statement.

Mr. PICKLE. Does this include such information as the names and numbers of employees?

Mr. RAMSEY. Not the number of employees. We can furnish that. There are 137,000 all told involved.

Mr. PICKLE. This is part of the information that I think should be included in the record.

If I may, Mr. Chairman, I would like to ask that it be included in the record. It is pertinent information pertaining to the number in the specific shops involved, and the number of employees, as well as the railroads involved.

The CHAIRMAN. What you specifically want are all of the shop craft unions mentioned here?

Mr. RAMSEY. We can give that to you right now, sir, for the record.

Mr. PICKLE. I don't want to use up all my time on the submission of information.

The CHAIRMAN. Will you read it for the record?

Mr. RAMSEY. This is as of January 1966. We obtain our information from the ICC, the Interstate Commerce Commission, the M–300 records.

Linemen and groundmen, 2,168 represented; blacksmiths, 1,759 represented through the boilermakers and blacksmiths; 1,136 boilermakers; 13,069 carmen, A and B; 39,159 carmen, C and D; 11,567 electrical workers A; 1,326 electrical workers B; 193 electrical workers C; 19,945 machinists; 50 molders represented through the sheet metal workers; 6,284 sheet metal workers; total mechanics, 97,353.

Skilled trades helpers, 10,756. They are divided between all these crafts. I don't have the breakdown for each individual craft on helpers.

There are 206 helper apprentices. Those are apprentices who have been drawn from the helpers' ranks that had two or more years' experience as a helper.

There are 3,417 regular apprentices.

There are 3,815 coach cleaners; 5,847 classified laborers; 7,577 general laborers; 738 stationary engineers; and 554 stationary firemen.

So the total at that time, January 1966, was 130,263.

During the year they have increased in number to where there are 137,000, approximately.

Mr. PICKLE. Mr. Ramsey, are you saying, then, that the total number of employees you have just mentioned are those involved in this specific strike? Are these memberships nationally or are these just in this particular industry?

Mr. RAMSEY. Just in this industry, sir.

Mr. PICKLE. I understand the industry. But these are national figures?

Mr. RAMSEY. These are the national figures.

Mr. PICKLE. Will you tell me the number involved in the specific strike that we are referring to today? Just on the shop crafts.

Mr. RAMSEY. I didn't get the question. The buzzer was going.

Mr. PICKLE. All I was trying to establish is the actual number of employees involved in the particular and specific dispute under consideration now, not the national memberships in these particular six unions, but the ones involved in this particular localized or regional strike.

Mr. RAMSEY. 137,000 is the total.

Mr. PICKLE. How many?

Mr. RAMSEY. 137,000 is the total. Our organization alone has 980,000 and the electrical workers have 870,000.

Mr. PICKLE. In the dispute that is currently underway, just as a matter of general reaction do you think the parties involved in the dispute, whether union or railroad employees, should have the authority to make a decision themselves, or should they be able to go back to either management or their crafts for a further vote?

Mr. RAMSEY. We are talking about a referendum vote, I presume?

Mr. PICKLE. Referendum, or should the parties involved have plenary powers to actually make an agreement that is a contract.

Mr. RAMSEY. I think a referendum vote in this industry on a national basis is just completely out of the question. It shouldn't take place. I would assure you right now when we talk about, perhaps, the vote taken in the airline dispute, where it went about 3 to 1 the first time against the proposal, which was a fairly reasonable proposal, this would go 9 to 1 against.

Mr. PICKLE. In your testimony, I think you said on page 6, that the unions could not allow any cut in pay rates. As I recall, a representative of management the other day said that any cut, if at all, would not apply to any present workers but only with respect to the new workers. Am I correct in that statement?

Mr. RAMSEY. No, because they would provide what is termed under job evaluation red circle rates, and the present incumbent would no doubt continue to receive that rate until such time as he vacated the job, through a quit, bidding, or some other method. But we are in the same position when we talk about that as you Members of the Congress are. We don't look at only the guy who is living today. We have to think about the one who is growing up, and the one to come into this world, and to protect their future.

Mr. PICKLE. Mr. Ramsey, it is difficult for any member of this committee to know which side is right. We have spent 3 weeks trying to determine who is giving us the best information, not as a matter of choice but because we have been given this problem. We are trying to arrive at these figures. If nothing is done, if we take no action on the bill before us, then we have a strike in the United States. Both parties have been in negotiation for at least 18 months. What assurance can we have, if we take no action, that you will get together?

Mr. RAMSEY. We can't give you any positive guarantee or bond, because you have to have two to make an agreement.

Mr. PICKLE. If that happened, then all we have is seizure or we have to try to take some action like this legislation before us. That is our choice, is it not?

Mr. RAMSEY. We prefer seizure, if it comes to that point.

The CHAIRMAN. Mr. Harvey.

Mr. HARVEY. In addition to the efforts of Francis O'Neill, the National Mediation Board Chairman, you have had some distinguished boards and panels listening to your testimony to try to resolve difficulties between labor and management. One was Emergency Board 169, headed by David Ginsburg, and the Fahy Panel, headed by Judge Fahy.

Emergency Board 169 held 7 days of public hearings, and the Fahy Panel, itself, while it may not have lasted very long, had 28 different meetings.

Have you felt that before both of these boards you have had adequate time to present your argument and to present your views as you have here this morning? Have you in any way had your efforts curtailed by lack of time or anything? Have you felt that the boards have given you adequate time?

Mr. RAMSEY. They gave us adequate time, but the Fahy Panel took no testimony or evidence. They were mediating and attempting to bring the parties off of dead center.

Mr. HARVEY. But the Ginsburg Board or the Emergency Board 169 did take testimony?

Mr. RAMSEY. Yes.

Mr. HARVEY. That testimony was valuable to the Fahy Panel, was it?

What I am trying to get at is: Is there any question in your mind but what the Fahy Panel was properly apprised of your views?

Mr. RAMSEY. They were properly apprised of our views, very emphatically, sir. But they were also apprised of the fact that we thought they were being guided more by the Economic Advisers over at the White House than anything else.

Mr. HARVEY. As I understand it, both of these boards, then, heard your views, both of them heard them completely. There is no question about that. And both of them rejected those views and came out with other findings. Is that correct?

Mr. RAMSEY. I would say they were governed and made reference to it on many occasions, by the Economic Advisers, Gardner Ackley, or whatever his name is.

Mr. HARVEY. I think it is fair to say that they rejected your particular views, did they not? In other words, they did not, in their findings, grant what you requested; is that correct?

Mr. RAMSEY. We rejected their views as far as that goes because we know that our people are——

Mr. HARVEY. Just a moment, Mr. Witness. I am not trying to embarrass you in anyway whatsoever. I am just trying to get information. I think it is a fair thing to ask you whether or not they granted your requests or whether they rejected them and came out with other findings.

Mr. RAMSEY. They came out with other findings, recommendations.

Mr. HARVEY. Now let's go on from there. They did not accede to your requests. We have that.

Either they decided that these requests were unreasonable or these men themselves were anti labor, pro management, whatever you want to say. It seems to me it comes down to that conclusion, does it not?

Mr. RAMSEY. I wouldn't say so. I think they were governed by the Advisers, the Economic Advisers.

Mr. HARVEY. The Economic Advisers where?

Mr. RAMSEY. To the President.

Mr. HARVEY. The Economic Advisers to the President?

Mr. RAMSEY. The same group that set the 3.2.

Mr. HARVEY. And you think that these people were, in effect, anti-labor?

Mr. RAMSEY. I didn't say that, sir.

Mr. HARVEY. They certainly weren't prolabor, were they?

Mr. RAMSEY. I didn't say they were.

Mr. HARVEY. Someone on television the other night made the statement that they were getting a little tired of these antilabor-promanagement boards, and this was one of the labor leaders for the railroads. Would you say that you were in accord with that statement?

Mr. RAMSEY. I didn't hear the statement. I know that it didn't emanate from any of my colleagues at this table.

Mr. HARVEY. I know it didn't either.

I will ask you that question: Do you think that these boards were antilabor and promanagement?

Mr. RAMSEY. I think these boards under the present circumstances are guided by the whims of the Council of Economic Advisers, regardless of the justification or the merits that might be disclosed for adjustments far in excess of what they have determined, the so-called guideposts, guidelines, or whatnot.

Mr. HARVEY. In other words, you believe that the boards do not exercise their own independent judgment but that they take their orders from the Economic Advisers; is that correct?

Mr. RAMSEY. I am well convinced of that fact, after going through the airline dispute and going through this one.

Mr. HARVEY. I have just one other question, Mr. Chairman.

As a practical matter, Mr. Ramsey, you have not had the right to strike the railways since 1922; isn't that correct?

Mr. RAMSEY. We have had the right to strike, yes; except that the railroads always rush into court and get an injunction in about 5 minutes.

Mr. HARVEY. You don't think that here today, with this committee hearing the President and the Secretary of Defense telling us that chaos would come to this country and we couldn't tolerate a strike for 24 hours, that you really have the right, do you?

Mr. RAMSEY. We have the right to do that.

Mr. HARVEY. You may have the right on paper, but let me say this, that in the tenure of eight Presidents of the United States since 1922, in the tenure of 23 different Congresses, all of them have seen fit to prevent a railroad strike.

I say to you right now that I don't think any Congressman here today is going to permit a railroad strike, either. It doesn't seem to me that that is an alternative that we live with. You mention that in your statement, but I say to you that I, for one, am not going to second-guess either the President or the Secretary of Defense, whether they be of my party or somebody else's party. When they take this attitude, I think we have to agree with them.

The CHAIRMAN. Mr. Adams.

Mr. ADAMS. Mr. Ramsey, who requested that the groups bargain in national units? Was this done by the carriers or was this done by the unions individually or by some agreement?

Mr. RAMSEY. I think it originated back in 1930, in the 1930's, perhaps as early as 1932. It was decided and understood, and agreed, that the best way to handle the negotiations in the railroad industry was on a national basis.

Mr. ADAMS. That leads me to the question that you started to allude to but didn't finish with one of the other members. That is, are the union negotiators—and I believe you have all the gentlemen here—authorized now to settle this matter without—and I will ask it in two parts—first, referendum to the membership, or, second, referral to the national organizations' regional chiefs?

Mr. RAMSEY. We are fully authorized any time we reach an agreement that we believe to be reasonable, to settle and sign, and it becomes effective.

Mr. ADAMS. You mention in your chronology that April 25 was the last carrier meeting. I would ask you this, and you can confer with the other members of your group if necessary—though I assume you probably have before—have you indicated to the mediators in this matter that you are willing to move from the established position of your last stated public offer, to some other position in order to obtain settlement? I won't ask you what specific position you would have to move to, but have you so indicated this?

Mr. RAMSEY. Indirectly; yes, sir.

Mr. ADAMS. This becomes important. I want to limit this just to the national strike situation and the national emergency which we have here. Is that clear? The reason I ask you publicly today is that I think it is important to the type of legislation that we frame. Has it been clear that you have indicated a willingness to mediate or to settle this, that you are not frozen on your last public offer?

Mr. RAMSEY. We are never frozen as long as negotiations can take place and there is good-faith bargaining, exchanges of proposals and counterproposals. We are never frozen.

Mr. ADAMS. You have so indicated this to the mediators. You mentioned that you have had most recently with you the Fahy Panel, and Secretary Wirtz, Secretary Boyd, and Mr. O'Neill. They were all together on the 23d of April.

Mr. RAMSEY. I think Under Secretary of Labor Reynolds and Secretary Wirtz are familiar with the fact that we are ready, willing, and able to negotiate at any time. We are not frozen.

Mr. ADAMS. The reason I ask you this is because I have asked the same thing exactly of management and I got an answer that I wasn't satisfied with. We went back and forth on that several times.

So I don't want there to be any question on your side that if we make a proposal which, in effect, is unpalatable to both sides, that we can get some movement in this matter. If it is your publicly stated position that you are of the mind that you are able to move, then I think the sanctions which have been perhaps applied to your membership, which are the injunction and some type of final settlement of wages and conditions for a fixed period, are perhaps sufficient, and that we need to apply some equal sanctions to the other side to compel this negotiation.

Taking that position, I would like to ask you this: Do you have a position if a receiver is appointed, or if there is a type of seizure, whether seizure or appointment should be a Cabinet member, an appointee of the President, or a judicial receiver to be appointed by a court—do you have a position on it? If you do, fine; I would like to hear it.

Mr. RAMSEY. I am not the last word on law, but we would prefer the appointee of the President, such as occurred during the First World War.

Mr. ADAMS. I would like to know what your position is if there are to be these sanctions applied during this period of continuing mediation—I think you may have stated this before—what is your position on requiring at a point in this statement of public position by you as negotiators for the unions and by management in their position as negotiators for all the carriers?

Mr. RAMSEY. A declaration to the public?

Mr. ADAMS. A public statement of your unions. We would envision something like this: The requirement that management submit an offer, and that it be accepted or rejected by your side and then if it were rejected, a statement of counteroffer by your side to be combined with the panel recommendations in terms of a final solution to the matter.

By "final solution" I mean an establishment of conditions during the period of time when management would be held and you would be held.

Mr. RAMSEY. I haven't had time to study the more recent bill that I believe you have sponsored——

Mr. ADAMS. Several of us have introduced an additional bill.

Mr. RAMSEY. We, of course, feel that unless there was very elaborate machinery, No. 1, you could never take a vote of the membership. It would be a delaying tactic that would bring no results; that is, toward a settlement.

Mr. ADAMS. We can reconsider that provision. It was based on the airline strike experience. I am now taking your publicly stated position that you gentlemen sitting at this table have full authority, with no question, to settle this without having to go to anybody else.

Thank you, Mr. Chairman.

The CHAIRMAN. Dr. Carter?

Mr. CARTER. Thank you, Mr. Chairman.

Mr. SPRINGER. Will the gentleman yield?

Mr. CARTER. Yes, sir.

Mr. SPRINGER. You have raised something new, Mr. Ramsey, which

I didn't know about until this point, but which I raised in the airline strike. That was whether or not there were pressures being exerted by somebody at the administrative level to keep them from going beyond a certain figure. Is that what you are talking about?

Mr. RAMSEY. I think that is very true.

Mr. SPRINGER. As I understand it, your thinking at this time is that the Economic Advisers are either bringing pressure or suggesting that any increase not go beyond certain guidelines.

Is that correct?

Mr. RAMSEY. That is correct.

Mr. SPRINGER. Your thinking, then, is that these two Boards are not going beyond those guidelines?

Mr. RAMSEY. I feel reasonably sure that is true.

Mr. SPRINGER. Now, is it your thinking further, on this second question, that this guideline which they are talking about now may be also proposel as a guideline, as I understand it, in the summer and fall, there being a number of negotiations on some large contracts between management and labor, that this guideline would more or less follow that and that is the reason the Economic Advisers at this point do not want them to go beyond a certain figure or a certain percentage? Is that your thought?

Mr. RAMSEY. I think they recognized the settlement in the airlines and other matters raised the ante from 3.2 to 5 percent, as their guideline for settlement of contracts.

Mr. SPRINGER. Their thought was 3½ percent at the time of the airline strike, but approximately a year later it is 5 percent. Roughly, that is their position?

Mr. RAMSEY. Yes, sir.

Mr. SPRINGER. I thank the gentleman.

Mr. CARTER. Mr. Ramsey, is it your view that the railroads will not bargain because they think the Government will outlaw strikes under House Joint Resolution 559? Is that the reason why the railroads will not bargain in good faith?

Mr. RAMSEY. I feel that the railroads are at the present time firmly embedded in concrete and depending upon the Congress to save them from a fate worse than death.

Mr. CARTER. Thank you.

I yield back the balance of my time.

The CHAIRMAN. Mr. Blanton.

Mr. BLANTON. I have no questions.

The CHAIRMAN. Mr. Watkins?

Mr. WATKINS. Mr. Ramsey, I would like to call this to your attention: You say in 1967 you asked for a 6½-percent increase.

Mr. RAMSEY. That was our final offer up to the present time to settle this dispute, 6½ percent on the base wages, and then an additional 12½ cents to be awarded to the more skilled men.

Mr. WATKINS. Six and one-half percent and 12½ cents in 1967?

Mr. RAMSEY. 12½ cents in 1967.

Mr. WATKINS. We go from percentage to cents.

I would like to suggest to you that in 1968 you are asking for 5 percent and 12½ percent; is that right?

Mr. RAMSEY. 12½ cents.

Mr. WATKINS. And 5 percent is to make up the base pay?

Mr. RAMSEY. The regular wage adjustment we are seeking.

Mr. WATKINS. And 12½ cents is to make up the base pay?

Mr. RAMSEY. That is for the mechanics.

Mr. WATKINS. I would like to say this to you, and I will be very short because some of the other members are certainly entitled to speak to this subject today.

I think a big mistake is made in your bargaining. I think for anyone to sit back and depend on House Joint Resolution 559 is wrong. I think management and labor should be having this settled today.

Once such a bill is passed, and there is a seizure bill, or whatever happens, there is going to be a great setback to bargaining in this country, and I am in favor of free bargaining in this country.

I am going to suggest to you that I don't think you are too far off line. I may call to your attention another national contract with men who are comparable to yours. Perhaps you should start talking of a 3-year term. I know of a contract, with which I am very familiar, where it was 7½ percent the first year. The lowest base pay I know is $3.41 at the present time.

In the second year it will be 4 percent and in the third year it will be 4 percent.

I am not going to try to tell you how to bargain. You gentlemen know what you are doing. You have my sympathy. I like to see labor rewarded in these days of inflation and the high cost of living. It becomes a little amazing to me that on page 5 of your statement you say some of your men take home $100 a week, and if you cut it down to 40 hours it means $2.50 an hour. But you do say the average pay is $3.05. I don't want them to cut it back to $2.50.

Mr. RAMSEY. Sir, if I may interrupt you, I didn't say the average pay was $3.05. That is $3.0475, practically $3.05, is the highest rate.

Mr. WATKINS. But you say after deductions, many of them take home less than $100 a week. If you break $100 a week down into 40 hours, you have $2.50 an hour.

Mr. RAMSEY. Agreed.

Mr. WATKINS. That is a rather low wage.

Mr. RAMSEY. It is rather low; it is very low.

Mr. WATKINS. Very low for mechanics and men of your type.

I am going to suggest that you go back to bargaining. I don't want to have to vote on this bill. I don't want to vote on this bill, and I think you have a responsibility, along with management, both of you, to keep these railroads running.

Where you are now, you will get nowhere. You will only drive this committee into making a decision which I don't want to have to make, as I told you before. You are losing time and you should be talking. I suggest that to you.

I want to thank you for your testimony. I assure you that I will study it carefully further.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Brown?

Mr. BROWN. Thank you, Mr. Chairman.

May I clarify a point on page 3 of your statement? You list the initial proposals of the unions. As I understand it, they are for a 20-percent general wage increase on January 1, 1967, for 2 years; is that right?

Mr. RAMSEY. One year. Of course, our original proposal had no time limitation on it, Mr. Congressman. We served a normal section 6 notice, as it is known under the Railway Labor Act. Normally and historically,

there wasn't any termination date of the contract. It just continues and continues on. You serve a section 6 notice whenever you get ready to make a proposed change.

Mr. BROWN. But you selected the 20 percent; is that right?

Mr. RAMSEY. We arrived at 20 percent in connection with the mechanics' rate, which would have taken it up by 60 cents an hour.

Mr. BROWN. Did this include, then, the skill differentials?

Mr. RAMSEY. It wasn't in the picture. That was one of the modifications that developed. We knew that certainly under the present circumstances we couldn't expect in one lump sum to correct the wages by a full 20 percent. So we started making modifications and asking for a 2-year contract.

Congressman Watkins mentioned a 3-year agreement. We wouldn't be adverse to a 3-year agreement under proper terms.

Mr. BROWN. Do I understand that the 20 percent included the skill differential thought, then?

Mr. RAMSEY. Yes.

Mr. BROWN. If I understand also, the 6½ percent increase for 1 year and the 5 percent increase for the succeeding year amounts to about 11.8 percent and 12½ cents—12½ cents makes up the difference between that and what you said was 19 percent total wage increase?

Mr. RAMSEY. It only applies, of course, to three-quarters of the people, because the unskilled laborers wouldn't share in the skill differential.

Mr. BROWN. Yes, I understand.

If House Joint Resolution 559 passed, will there be an end to railway management-labor negotiations until January 1, 1969, or are there other unions involved here with which railroad management has not settled which will present a problem in negotiation between now and then?

Mr. RAMSEY. I am not absolutely familiar with their status. The conductors, I believe, have taken a strike vote, and there is every expectation there will be an emergency board appointed to that dispute.

I understand from, let's say, authentic sources that Board will be appointed by June 2 or 3. That is for the conductors.

Mr. BROWN. The terminal date is not until after the 19th of June, which is the present ending date of the continuation which Congress passed by resolution, under which you are operating; is that correct?

Mr. RAMSEY. I have told you the information I have with regard to the conductors.

Mr. BROWN. When is the date at which the conductors' strike is a possibility?

Mr. RAMSEY. I don't know, sir. I don't know whether they have actually set a date. The continuation time under the Railway Labor Act will not apply to them.

Mr. BROWN. My question still is: You don't know the date?

Mr. RAMSEY. No, sir.

Mr. BROWN. Do you think it is before or after the 19th of June? Have you any idea?

Mr. RAMSEY. Maybe there is somebody in the audience who can answer.

Here is the conductors' representative, one of them.

I am informed by a representative of the conductors that the Emergency Board must be appointed before June 2.

Mr. BROWN. In response to a question asked by Mr. Devine, you cited the productivity of the employees and the volume of railroad business increasing as the reason for the wage increase. If the volume of business declines, is it your opinion that the wages should be cut?

Mr. RAMSEY. Mr. Congressman, that doesn't happen in the railroad industry. They immediately get out the knife if they even project a reduction in traffic and start whacking them off at about 10 percent per clip.

Mr. BROWN. On the basis of seniority?

Mr. RAMSEY. Yes, sir. They don't waste very much time doing it. In fact, we have only about 50 percent of the employees employed by the railroads today that we had at the peak of employment.

Mr. BROWN. You also were talking to Mr. Harvey about the Presidential boards and inferred that they might be limited by the Presidential economic advisers in what they would permit in the way of settlement.

Are you suggesting that the boards themselves were not meeting with you and judging this matter on the basis of good faith?

Mr. RAMSEY. I am not accusing them of anything. They are appointed by the President, and they are given to understand what the policy of the administration is in regard to, as they term it, the inflationary trend, and cautioned to see to it that the recommendation doesn't exceed certain figures, I imagine.

I don't know. They don't let me sit on their sessions at the White House.

Mr. BROWN. Is this made part of the rules of the game to management and labor representatives; that when these boards meet there is a limitation?

Mr. RAMSEY. They don't tell you that except indirectly. They keep bringing to your attention the fact that the message of the President stated so-and-so and, therefore, of course, they intend to be conservative about what they do, which loses sight of the justification and merits of the case. But this is all you get.

Mr. BROWN. Mr. Chairman, you have been very patient. I would like to ask one more question, if I may.

When we had Mr. Leighty before us, he suggested that he would be willing to have Government ownership of the railroads. Would you share that view?

Mr. RAMSEY. If that is the only answer.

Mr. BROWN. What happens to the possibility of collective bargaining at that point?

Mr. RAMSEY. Then we would have to come down to the Congress and put the heat on, like the postal employees do.

Mr. BROWN. Is that much different than where we are now?

Mr. RAMSEY. Well, let us say the guillotine is there, of course. It is all according to whether you lower it on our neck or not.

Mr. BROWN. Would you prefer permanent Government ownership to House Joint Resolution 559?

Mr. RAMSEY. Personally, no.

Mr. BROWN. Would you prefer a strike to the possibility of seizure?

Mr. RAMSEY. Would I? No. We never prefer a strike, if we can bring about a reasonable settlement without it.

Mr. BROWN. Do you think seizure would bring about such a settlement?

Mr. RAMSEY. I think so.

Mr. BROWN. That is all, Mr. Chairman.

Mr. SPRINGER. Mr. Chairman, may I ask one more question?

The CHAIRMAN. Yes.

Mr. SPRINGER. I was much interested in what you said about Government ownership. The only real, solid complaints that I have heard during the 17 years I have been here have come from labor groups or brotherhoods of any kind who are under Government control. They get the worst deal, in my opinion, of any labor group that I know of, at least the ones that have come to me with their problems.

I have been simply astounded, at not only the refusal to bargain under some conditions but also the low wage rates, especially south of the Ohio River. There are some of those unions who are absolutely within Government that have been the worst I have seen.

If you want to get another picture of it, just try France. Here is one of the worst, lowest labor groups in all of that country, those that are completely controlled by the Government. There you have the public utilities and railroads controlled by the Government.

I can understand your feeling. I don't know of a big labor man of your stature who is for Government ownership as a solution to the problem. If you don't believe this, ask the postal workers.

Thank you very much, Mr. Chairman.

May I say, too, that Mr. Ramsey has been a distinguished labor leader not only in my own congressional district of Decatur, but a civic leader in the community, and a man of stature.

Mr. RAMSEY. Thank you.

The CHAIRMAN. I, too, thank you, Mr. Ramsey, and I thank those who attended with you. I join with my colleagues in saying that I think you have made a very fine statement of the facts as you see them. I think you answered the questions of the committee very well.

This ends our committee hearings for today.

I might make this statement for the benefit of those present: If the House were in general debate we would continue hearings this afternoon, but the House is proceeding under the 5-minute rule and we are prohibited. I would set hearings for tonight, but I don't know when we will be through on the floor tonight. It might be 8, 9, or 10 o'clock.

I think we will be in the same situation tomorrow. In order to expedite this hearing, the committee will resume tomorrow morning at 9 o'clock. The House might come in at 10 or 11. I hope to get the witnesses scheduled for tomorrow completed.

We are in a rather difficult situation. As I understand it, the House intends to recess for 1 week after tomorrow. There will be a decision made tomorrow as to whether we can hold hearings during that period.

We must expedite these hearings and get something resolved in some way. We will do the very best we can.

The committee will adjourn until tomorrow morning at 9 o'clock.

(Whereupon, at 12:25 p.m., the committee adjourned, to reconvene at 9 a.m., Wednesday, May 24, 1967.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 24, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 9 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order, please.

We are continuing the hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

We have this morning Mr. Lester P. Schoene, counsel for the Railway Labor Executives' Association.

Mr. Schoene, I notice you have with you this morning Mr. Leighty.

STATEMENT OF LESTER P. SCHOENE, GENERAL COUNSEL, RAILWAY LABOR EXECUTIVES' ASSOCIATION; ACCOMPANIED BY G. E. LEIGHTY, CHAIRMAN, RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. SCHOENE. Yes, Mr. Leighty is appearing with me, as I did with him when he testified last week.

Mr. Chairman and members of the committee, my name is Lester P. Schoene. I am a lawyer, a member of the firm of Schoene & Kramer, with offices at 1625 K Street NW., Washington, D.C.

I appear here this morning as counsel for the Railway Labor Executives' Association, which is the same organization whose chairman, Mr. Leighty, testified last Thursday. My firm has acted as counsel for the association in various matters for in excess of 20 years.

I have filed a statement in accordance with the rules, but with the committee's permission, I would like to discuss the issues that have sharpened up since that statement was prepared. In the course of my remarks, however, I will cover the subject matter contained in the statement.

The first issue that I would like to discuss——

The CHAIRMAN. Your entire statement will be included in the record at this point, Mr. Schoene.

Mr. SCHOENE. Thank you very much, Mr. Chairman.

(Mr. Schoene's prepared statement follows:)

STATEMENT OF LESTER P. SCHOENE, GENERAL COUNSEL, RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. Chairman and members of the Committee, my name is Lester P. Schoene. I am a partner in the law firm of Schoene and Kramer, 1625 K Street, N.W., Washington, D.C. and I appear before you today as general counsel to the Railway Labor Executives' Association. In this statement on H.J. Res. 559, I intend to discuss first of all some of the results of the previous compulsory arbitration law enacted by Congress in a national railroad dispute, namely Public Law 88–108.

The report of the Senate Committee on Commerce that accompanied the Joint Resolution which became Public Law 88–108 providing for compulsory arbitration of the work rules dispute in 1963, referred to the fear expressed on behalf of labor interests that a bill for arbitration would provide a precedent which might have far reaching and unfortunate effects. The report sought to allay such fears stating that the proposal "is not and cannot conceivably be considered as a precedent for the railroad industry" and that it was what it purported to be, "a one shot solution."

The introduction of House Joint Resolution No. 559 to bring to a termination the current dispute between the railroads and the six shopcraft labor organizations through the process of compulsory arbitration, coming less than four years since the enactment of Public Law 88–108, has vindicated the apprehension expressed by the labor interests in 1963 that Public Law 88–108 would become a precedent in future attempts to resolve labor-management disputes.

The proponents of the measure disclaim any intent or desire to impose compulsory arbitration on the parties, and characterize the proposal with such terms as "mediation with finality." The appellation attached to a particular proposed course of conduct is, of course, not the governing consideration. The relevant consideration is its practical consequences. There can be no question that what has been proposed here has pronouncedly all the objectionable features of compulsory arbitration.

The objections which have been voiced in the past by representatives of labor, and indeed by most informed persons, is to the establishment of a procedure whereby a third party is interposed into a labor-management dispute and dictates the terms and conditions to the parties, instead of leaving the parties in interest to resolve the dispute between themselves through the processes of collective bargaining. The procedure set forth in Section 5 of the proposed resolution is to have the terms and conditions established by a third party, and referring to the procedure as "mediation with finality" means no more than there now is a synonym for compulsory arbitration.

It has been suggested that the Joint Resolution is not really arbitration since the parties were close to reaching agreement through collective bargaining and all that now is required is a procedure to bridge the remaining gap which bargaining has not closed. The term "arbitration" is not appropriate, the suggestion concludes, because the third party is charged with resolving the dispute on the basis of what already had been accomplished in collective bargaining.

The parallel between the proposed resolution and the admittedly compulsory arbitration under Public Law 88–108, however, is striking in this very respect, among others. Thus, Public Law 88–108, in its preamble referred specifically to the fact that collective bargaining has resulted in "tentative agreement," and Section 3 of Public Law 88–108 charged the board of arbitration with the duty "to incorporate in such decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement."

Clearly, Congress was then of the view that the procedure it was establishing was not stripped of its nature of being an involuntary arbitration simply because the board of arbitration was required to fill in gaps. Incidentally, it should be noted that notwithstanding the mandate of Congress that the board of arbitration "shall incorporate in such decision any matters on which it finds the parties were in agreement," the board of arbitration did not do so, and the District Court for the District of Columbia, in which suit was brought to impeach the award, held that the board of arbitration was not required to incorporate such agreements in its award. The Court stated:

"Obviously, the purpose of the clause was to point the attention of the board to any agreements reached in order that the board might give them due weight,

but not to limit its discretion in arriving at a final decision." *Bro. of Locomotive Firemen & Enginemen, et al.* v. *Chicago, Burlington & Quincy RR, et al.*, 225 F. Supp. 11 at 19 (D.D.C., 1964).

The proopsed Joint Resolution provides the Special Board with even greater latitude in fashioning its own brand of industrial justice than that provided the board of arbitration under Public Law 88–108.

It is entirely clear that in considering S.J. Res. No. 81 and H.J. Res. No. 559 Congress cannot evade the responsibility of determining whether it will impose compulsory arbitration upon the parties as it did only three and one-half years ago in enacting Public Law 88–108. It likewise is clear that in considering the impact of Public Law 88–108 upon collective bargaining in the railroad industry, the only conclusion which reasonably can be drawn is that such legislation was a mistake which should not be repeated. The compulsory arbitration under Public Law 88–108 not only failed to resolve effectively the rules disputes at which it was aimed, but also created an atmosphere which has permeated railroad labor-management disputes since the enactment and which, in no small measure, is responsible for the situation which has brought us here today.

The failure of Public Law 88–108 to resolve the dispute at which it was pointed is evident from the fact that even at this late date, more than three and one-half years since its enactment, and more than 15 months after the expiration of the award of the arbitration board, there are a couple of dozen cases involving the arbitration award now pending in the Court of Appeals for the District of Columbia Circuit, and some which still have not even been argued before that tribunal as of this date, and some still pending in the District Court. Dozens more were brought in the District Court and decided without an appeal being taken. The arbitration of the rules dispute has resulted in a situation where the parties are in total disagreement on such a fundamental issue as which rules have been in effect since January 25, 1966, the date the award expired. The parties cannot even agree on the method and manner in which they are required now to bargain about the subject. Collective bargaining has come to a complete standstill on that issue and even now, the railroads are once more seeking to establish a national crisis with respect to the rules dispute in the hope that Congress will again step into the dispute and again require compulsory arbitration as it did in 1963.

The impact of Public Law 88–108, however, has extended far beyond the confines of the dispute with which it was concerned. Indeed, its specter is present in this room today. The failure of the parties to reach agreement on the dispute involved here, at this stage of the negotiations, certainly does not present a unique situation. There have been many such instances. Yet never before Public Law 88–108 has any one felt the need to propose legislation to deal with such a dispute. The reason for this is obvious. In the past, prior to Public Law 88–108, each side was aware that the dispute could be settled only across the bargaining table, and with such knowledge, engaged in sincere and meaningful negotiations to resolve the dispute before either side would find it necessary to resort to self help. And agreements were reached. The undeniable fact is that the last "national" strike in the railroad industry occurred more than 20 years ago, and that strike lasted only for a few days at which time agreement was reached. Public Law 88–108, however, has thrown a pall over the continued effectiveness of collective bargaining. The railroads believe that there no longer is any necessity to reach agreement except on their own terms. If agreement is not reached, the railroads assume, Congress will step in and require compulsory arbitration before any economic pressure can be brought to bear by the employees in an attempt to reach agreement.

Congress recognized the inherent danger to the future of collective bargaining in the enactment of Public Law 88–108 and it went to great lengths in the committee reports, and in the Act, to make it clear that Public Law 88–108 was not to be taken as a precedent, that it was a "one shot solution", and that the enactment was in no way to be taken as an indication that Congress no longer believed that the settlement of disputes is to be reached in any manner other than "in a manner which preserves and prefers solutions reached through collective bargaining." To enact this proposed resolution requiring compulsory arbitration, within such a short period following the enactment of Public Law 88–108, and indeed, at the very first opportunity to do so following that enactment, will be taken by the railroads as establishing a last ditch of compulsory arbitration which Congress would afford them (and which they have long sought) if agreement was not reached. This will encourage the railroads to be uncon-

cerned with meaningful negotiations in the future in the expectation that the Congress will not permit the railroads' employees to exercise their economic strength to bring about a fair and just agreement through collective bargaining.

The attempt to obfuscate the arbitrative nature of the Resolution has resulted in the inclusion in the proposal of a provision entirely inappropriate under the circumstances and in the failure to include even the most elementary safeguards to protect the rights of the parties to the arbitrative procedure against the arbitration tribunal exceeding its jurisdiction, and even against corruption. Even Public Law 88–108 furnished such minimal safeguards, or at least tried to do so.

Thus, in conjunction with the insistence that the Resolution prescribes mediation and not arbitration, Sections 5 and 6 of the Resolution would require that the parties engage in negotiations for 30 days following the determination of the Special Board. It is impossible to conceive of an atmosphere less conducive to the settlement of this dispute than that which will prevail during such 30-day period. What inducement or incentive would the railroads have to bargain with their employees during this period when they are aware that the maximum they will be required to offer already has been decided and, within 30 days, will have to be accepted by their employees pursuant to an Act of Congress? There is no purpose served by the requirement of 30 days further negotiation of an issue, which has become non-negotiable, except to lend to the aura that what is involved is mediation and not arbitration, which of course, is not the case at all.

The proposed Joint Resolution's most serious defect, also no doubt due to the attempt to disguise the legislation as mediation and not compulsory arbitration, is its failure to provide even elementary safeguards in connection with the arbitration of the dispute and the resulting award. Thus, Congress in enacting Public Law 88–108, facing up to the fact that it was requiring compulsory arbitration, provided safeguards by requiring that the arbitration be conducted pursuant to Sections 7 and 8 of the Railway Labor Act, and that the arbitration award be subject to Section 9 of the Railway Labor Act.

Sections 7 and 8 of the Act set forth the procedures a board of arbitration is to follow. They include the basic requirements that the parties be afforded an opportunity to present evidence in support of their claims, either in person, by counsel, or other representatives of their own choosing; that the arbitration board could be required to reconvene to pass upon any controversy over the meaning or application of the award after the award issues; and that the arbitration board file a copy of its award with a federal district court in the district wherein the controversy arose or the arbitration was entered into.

Section 9 of the Railway Labor Act provides the grounds for impeachment of an award of an arbitration board. The grounds for impeachment include the failure of the award to conform to the substantive or procedural requirements of Sections 7 and 8; its failure to conform or confine itself to the stipulation or agreement to arbitrate; or that one of the members of the arbitration board rendering the award was guilty of fraud or corruption.

The arbitration board convened under Public Law 88–108 held hearings as required by Sections 7 and 8 of the Railway Labor Act and the award was entered in the District Court for the District of Columbia as provided in Public Law 88–108. The District Court upheld the validity of the award in a suit brought to impeach the award under Section 9 of the Railway Labor Act and judgment was entered on the award. During the period of the award, numerous questions arose concerning the meaning and application of the award. Pursuant to Sections 7 and 8 of the Railway Labor Act, these questions, propounded in some instances by the railroads and in others by the employees, were submitted to the reconvened arbitration board for determination. The answers of the arbitration board likewise were filed with the District Court and each of the parties were afforded an opportunity in that forum to seek to impeach the interpretations. A number of such impeachment suits were filed.

Early in the period of the award, one of the labor organizations involved threatened to strike because of action threatened by some of the railroads allegedly in violation of the terms of the arbitration award. The District Court in which the award was filed, enjoined the strike but left open the decree for the purpose of permitting either of the parties to return to the court for supplemental relief if either believed the terms of the award were being violated. *In Re Certain Carriers, Etc.*, 229 F. Supp. 259 (D.D.C., 1964). A number of motions for supplemental relief were filed, by both sides.

There is no provision in the Joint Resolution affording any of the procedural or substantive safeguards contained in Sections 7, 8, and 9 of the Railway Labor Act. There is no provision for the Special Board to reconvene to resolve disputes

arising over the meaning or application of the award should any arise. There is no provision setting forth the grounds, if any, upon which the award could be impeached. There is no procedure for resolving disputes over interpretations or applications of the award, or "mediation with finality." Could the parties go to the National Railroad Adjustment Board? Could they go back to the Special Board with such disputes? Could the parties resort to self help over such disputes, as distinguished from disputes over the original notices? The proposed legislation does not tell us. Could the parties, within the two-year period, serve new Section 6 proposals to become effective at the end of the two years, and would bargaining be required on such proposals? The proposed resolution does not tell us. Under Public Law 88–108 it was held that bargaining was not required until after the two years expired. That question is now pending on appeal. Do we want such turmoil again?

The failure of the proposed resolution to deal with any of these matters results in the denial to the parties involved in this dispute of any effective recourse even should the Special Board render an award which goes far beyond the scope of the issues assigned to it for determination, or render an award which is utterly without foundation or even corrupt. There is no recourse to a party even if it could be shown that one of the members of the Special Board rendering the award was guilty of fraud or corruption.

I do not imply that furnishing the safeguards of Public Law 88–108 would solve the problems,—it would only make this legislation no worse than Public Law 88–108. Arbitration Board No. 282, convened under Public Law 88–108, had submitted to it something like 437 requests for interpretations of its Award,—more than ten times as many as the preceding 281 arbitration boards combined were asked to make under their voluntary arbitrations. And the litigation that has resulted from that arbitration is incalculable and apparently interminable,—so courts are not the satisfactory answer to these problems. The only answer is collective bargaining to an agreement, prodded perhaps by resort to or the imminence of self-help and accompanying temporary public inconvenience.

The Congress and the President are understandably trying to avoid "the paralysis of our economy"—the fact is it has never yet happened from a strike. Left alone, the parties have always ultimately agreed. But the repetition of compulsory arbitration will lead to paralysis—not of the economy, but of collective bargaining in the railroad industry.

The railroads will feel secure in their confidence that Congress will always provide them with the last ditch of compulsory arbitration, a trench they have long sought and one which enables them to shirk their obligation, if they are so inclined, to make agreements.

I urge that legislation is not the solution. But if there is to be legislation, for a remedy in perspective of the future of collective bargaining, if it is to include procedures that are anathema to the employees, it must include also provisions that are anathema to the railroads.

Mr. SCHOENE. The first issue that I would like to discuss is whether the bill under consideration, House Joint Resolution 559, does or does not provide for compulsory arbitration.

You will recall when the Secretary of Labor appeared at the outset of the hearings, he was quite insistent that the bill did not, in fact, provide for compulsory arbitration but, rather, what he called mediation to finality. The distinction which he drew was that this bill proposes to build onto what the parties have achieved through direct collective bargaining.

He says the parties have built the arch and this bill aims only to place the keystone of the arch into position.

I would remind you that on the previous occasion when the Congress enacted compulsory arbitration, the same thing was true.

I will discuss more fully the experiences under Public Law 88–108, but I draw your attention at this time to the fact that that, too, was supposed to build upon what the parties had accomplished by collective bargaining, and very narrowly defined the issue to be arbitrated, just as this bill does.

Yet there is no question about the fact, and the Secretary of Labor now admits that that turned out to be compulsory arbitration.

Furthermore, the fact of definition of the issue in narrow terms is not a distinguishing characteristic of this bill. Arbitration generally occurs according to defined issues, and very frequently the issue to be arbitrated is very narrowly defined.

In fact, most arbitration in which I have participated came at the end of a long process of collective bargaining when only a few issues were left to be resolved, and only narrowly defined issues were submitted to arbitration, just as this bill proposes to do.

On the Senate side, Senator Morse has placed into the record his distinction between this bill and compulsory arbitration. Senator Morse says that arbitration follows a strictly judicial procedure, with the burden of proof and weight of the evidence to govern. The arbitrators do not mediate or seek to compromise, but must follow a strictly judicial procedure.

Of course, Senator Morse is a distinguished authority in this field, and I wouldn't for a moment question his right to set up his own definition of arbitration, but the fact is that the characteristics which he describes do not, in fact, prevail in a great many arbitrations; that is, things which are called arbitration, whether Senator Morse would so denominate them or not.

In fact, taking the matter of mediation and compromise, it has been my experience that particularly in tripartite boards, where there are party representatives and neutral representatives, the neutral representatives will seek compromise, will seek to mediate the dispute.

In fact, I have known arbitrators under those circumstances to shop for concurrence among their colleagues on the arbitration board. In other words, the arbitrator will say to one of his colleagues, "This far I can go with you, if you will join me in making such an award. If you don't join me in that, I will have to rewrite my decision so that I can get an acceptance from the other side."

This very commonly occurs, whether it is proper arbitration or not. And, of course, since the development of pretrial procedures, the judicial function also seeks compromise and settlement in advance of trial.

It is perfectly true that if the pretrial conference doesn't result in a compromise, a strictly judicial proceeding ensues. But I do call attention to the fact that preliminarily in most trial courts today, compromise and settlement is also sought by judges.

There seems also to be some sentiment that the magnitude of the differences between the parties has something to do with whether or not this is, in fact, compulsory arbitration. I have heard the sentiment expressed that since the parties appeared to be very close together, somehow or other that justifies the kind of action proposed in the bill.

I would readily agree that if the parties are close together, and the remaining issues are narrow, this might be a reason why they would voluntarily agree to arbitrate, or it might be a reason why you should expect that they would be able to settle the remaining differences without congressional interference.

But the fact remains that the procedures by which this bill proposes, as a last resort, to resolve those differences is by legislating into the

hands of people other than the parties the power to make a binding decision of the issues. So long as that method of resolution is there, I respectfully submit that it is compulsory arbitration no matter how it is dressed up.

Further, it holds a potentiality of compelling parties, private parties, to work for other private parties at rates of pay that are not acceptable to them, and for private profit. That is another characteristic of compulsory arbitration.

I think it is a particularly destructive element to collective bargaining, that is destructive of collective bargaining. That is true as to this particular case. Congressmen here have expressed regret that bargaining is not going on while this bill is under consideration. I think that is regrettable, too. Yet it should not surprise anyone, because if this bill is enacted, as the carriers obviously hope and expect it will be, then the worst thing that can happen to the carriers is exactly what they want.

You have heard others testify that throughout the bargaining in this case the carriers have wanted a law rather than a settlement. They have been seeking compulsory arbitration as a general rule since 1950. That has been their declared position. If they can't get compulsory arbitration as a general rule, they seek its imposition by Congress in individual cases, just as they did in 1963 with the enactment of Public Law 88–108.

But its adverse effect goes beyond this particular case. I think it is very interesting in this connection to call your attention to a case that is pending in the U.S. Court of Appeals for the District of Columbia right now. It was argued a week ago Monday and is awaiting decision.

In that case, the Brotherhood of Railroad Trainmen, in connection with the same dispute that was the subject of Public Law 88–108, after the Presidential Railroad Commission and the Emergency Board and the Compulsory Arbitration Board had all said that the crew consist does not lend itself to national handling and should be handled on a local basis——

Mr. SPRINGER. I didn't get the first part of your statement. Would you repeat that, please?

Mr. SCHOENE. The Presidential Railroad Commission, the Emergency Board and the Arbitration Board that was set up by Public Law 88–108 all had found that the issue of train crew consist, the manning of trains, did not lend itself well to national handling, because there was such a variety of requirements varying from one railroad to another.

So the Brotherhood of Railroad Trainmen, in its present pursuit of further rules, has attempted to handle it on an individual railroad basis. The railroads have refused to bargain on an individual railroad basis and have insisted that it be handled on a national basis.

They went to the U.S. District Court for the District of Columbia and got an injunction requiring the Brotherhood of Railroad Trainmen to bargain nationally on that issue.

Why did they do that? For the obvious reason that they want a national crisis in case the dispute is not resolved by bargaining. They want a situation in which the trainmen will have to strike nationally instead of locally, just so that they can again come to Congress and say, "This is a national catastrophe. Congress must intervene to provide compulsory arbitration to settle the strike."

This is currently going on. We are waiting now for the court of appeals to decide the issue. I hope and expect that the district court will be reversed. But whether or not the carriers prevail in the court, this demonstrates their attitude of seeking crisis rather than indulging in the kind of bargaining that would be calculated to avoid a national issue.

Finally, I want to point out to you that the administration spokesmen who have supported this bill have said, "Well, it doesn't really make any difference what you call it. What difference does it make what label is attached? The question is, does it make sense?"

Basically, I agree with that. Names aren't particularly important. But I ask the question: Who introduced the matter of names?

Let me remind you that before this bill emerged from the White House, the President held a press conference and he said that one of the things that was being considered at the White House level was some sort of device that would not be either seizure or compulsory arbitration.

We waited with great interest to see what this interesting device might be and then it emerged. The press reported that both Senator Morse and Secretary Wirtz had said it was not compulsory arbitration. George Meany, on the other hand, was quoted as saying, "It is, too, compulsory arbitration."

I don't think we would have had any controversy about what labels to put on it if there had not been this studied attempt on the part of the White House to label it noncompulsory arbitration in the hope that it would thereby apparently become more palatable. However, I think at this stage we must recognize it for what it is. It has all the elements of compulsory arbitration that are repugnant to labor.

If the White House had said to us at the beginning, "The only thing that this has in common with compulsory arbitration is that element which labor has always found odious," then we would never have had any controversy about what label to attach to it.

Now I want to turn to a more detailed consideration of the parallels between what is proposed to the Congress now and what happened in 1963 when Congress enacted Public Law 88–108.

There, too, as I have already pointed out, the issues were narrowly drawn. In fact, the parties had agreed in that case to the principle of arbitration. They had, however, fallen apart when it came to drafting the arbitration agreement and the issues to be arbitrated. So the bill that became Public Law 88–108 was presented to Congress as having this very benign purpose of just helping the parties define the issues that they had been unable, themselves, to define.

There, too, it was represented that this merely built upon what the parties had achieved in collective bargaining. In fact, the fifth recital in the bill said, "Whereas, it is desirable to achieve the above objectives in a manner which preserves and prefers solutions reached through collective bargaining"—that sounds familiar, doesn't it? That is just what you have been hearing here.

Furthermore, you speak of narrow definition of the issue. It is almost impossible to conceive of issues more narrowly defined than the issues to be arbitrated in that case.

Section 3 of that bill said:

Promptly upon the completion of the manning of the Arbitration Board, the Secretary of Labor shall furnish to the Board and to the parties to the dispute copies of his statement to the parties of August 2, 1963, and the papers therewith submitted to the parties, together with memorandums and such other data as the Board may request, setting forth the matters with respect to which the parties were in tentative agreement, and the extent of disagreement, with respect to matters on which the parties were not in tentative agreement.

The Arbitration Board shall make a decision pursuant to the procedures hereinafter set forth as to what disposition shall be made of those portions of the carriers notices of November 2, 1959, identified as "use of firemen helpers on other than steam power and consist of road and yard crews"—

A very narrowly defined issue: It picked out the general dispute—

and that portion of the organization's notices of September 7, 1960 identified as "minimum safe crew consist," and implementing proposals pertaining thereto

Note this:

The Arbitration Board shall incorporate in such decision any matter on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement. Such awards shall be be binding on both the carrier and the organizations, parties to the dispute, and constitute a complete and final disposition of the aforesaid issues covered by the decision.

Further, in section 7, the Board was again admonished to give due consideration to the narrowing of the areas of disagreement which has been accomplished in bargaining and mediation.

By contrast, the bill that you now have under consideration is wide open. The Board, it is true, is admonished to start with the Fahy Panel recommendations; but then in its final determination it is authorized to modify those recommendations according to four standards which seem to me to be as broad as all outdoors. The standards are—

(1) That it shall be in the public interest.

What variety of notions can various people have as to what is in the public interest?

(2) It is to achieve a fair and equitable extensison of the collective bargaining in this case.

(3) It is to protect the collective bargaining process.

(4) Fulfill the purposes of the Railway Labor Act.

I submit to you gentlemen that there can be as many different notions of how those standards apply as there are people in the world.

Mr. FRIEDEL. Do you have any amendments to offer to this section?

Mr. SCHOENE. No, Mr. Friedel. I think the history of Public Law 88–108 demonstrates that no matter how narrowly you define the issues, what standards you set up, it still isn't going to work.

Public Law 88–108 did provide that the award was subject to impeachment if the standards set forth in the legislation were not followed. Even that safeguard is lacking in this case.

But what happened? The Arbitration Board, in fact, utterly disregarded the standards that I have read to you. The Secretary of Labor now admits that that Board set up its own standards of reference for resolving the dispute in spite of the fact that Congress had admonished the Board to incorporate in its award the matters on which the parties were in tentative agreement.

Mr. SPRINGER. Did you say that they disregarded that? I want to be sure that I got your language.

Mr. SCHOENE. Yes.

Mr. SPRINGER. They did disregard it?

Mr. SCHOENE. Yes.

Mr. SPRINGER. Do you have proof of that, or is that your belief?

Mr. SCHOENE. I think the award speaks for itself in that respect. They came forth with an award which in no way followed the tentative agreements of the parties. We did bring proceedings to impeach that award, as the law provided we could do.

Mr. SPRINGER. Was this the March board or was this the Fahy Panel? Are you talking about 1963?

Mr. SCHOENE. Yes.

Mr. SPRINGER. I misunderstood you. I am glad I asked the question. Thank you.

Mr. SCHOENE. I am very glad to have the opportunity to straighten that out. I am talking now only about the experience which we have had under Public Law 88–108.

So we came to court and sought to impeach the award for failure to follow the standards imposed by the statute. What did the court say about that?

With respect to the language that I have quoted to you from section 3, the court said, and I am now quoting from 225 Fed. Supp. 11, at page 19:

> Obviously the purpose of the clause was to point the attention of the Board to any agreements reached in order that the Board might give them due weight, but not to limit its discretion in arriving at a final decision.

The language I have quoted is from the district court. If that had been simply an errant district judge who so held, you would expect it would be reversed on appeal. It was appealed and the court of appeals affirmed, and the Supreme Court denied certiorari.

Why did we have that experience in the courts? I don't know. I can surmise, and I will give you my best estimate as to why it happened.

If that award had been invalidated, probably a national strike would have ensued and no court in the country was going to take the responsibility for saying, "This award is invalid; it did not follow the standards set up by Congress," and take upon itself the responsibility of bringing on a national strike.

So even if you have most carefully defined standards, you nevertheless can expect that once the award is made, once the determination is made, the parties will be stuck with it.

There were various other legal questions that arose under that award which have been the subject of litigation ever since. There are literally dozens of cases still pending in the courts over that award. What has been the nature of these disputes?

There was a very important decision by the court of appeals a week ago last Friday which passed on some 10 appeals and addressed itself to some of the very important issues. One of the issues that arose was, in the event the parties did not agree on further rules to govern after the expiration of the award, which was limited to 2 years, then what rules would be in effect?

I thought it was fairly plain that since the award simply superseded agreed upon rules for the period of its duration, then upon the expira-

tion of the award, in the absence of some agreement of the parties, the former rules would become operative again. But the carriers said, "No, that isn't the situation. They go on unless agreement is made to change it."

In other words, although the award had a specific expiration date of not more than 2 years from the time it was made, according to the carrier contentions it would, nevertheless, go on until agreement was reached to change it. In this respect they have prevailed in the district court and in the court of appeals.

In that respect, the court of appeals decision of a week ago Friday affirmed the district court.

There were other very important questions where again I thought on the face of the statute, the intent of Congress was perfectly plain. One of these concerned what was the duty of the parties with respect to bargaining during this period that the award was in effect.

At the time the bill was under consideration, Mr. Wolfe testified before the Senate committee saying—quoting from page 20 of the court of appeals decision:

> A chief spokesman for the carriers, Mr. J. E. Wolfe, assured the Senate committee that the carriers understood that the Administration's bill "imposes a duty on the parties to attempt to settle their differences, and would protect the public interest as a result of the establishment of these interim rules for a period of two years or less, while the parties undertake, through collective bargaining, to bring about a more permanent solution of the problems."

If that sounds familiar, it is probably because it is very much like the testimony Mr. Wolfe was giving here to this committee about this bill. Nevertheless, after so testifying to Congress during its consideration of Public Law 88–108, Mr. Wolfe and his associates took the position that there was absolutely no obligation to bargain about rules to come into effect after the expiration of the award until the award had expired.

The district court again agreed with him. By injunction, it prohibited the brotherhoods from imposing on the carriers any obligation to bargain about new rules during the entire period of the award.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. I want to be certain the committee keeps this straight. As a lawyer, I think I understand it.

Is it your feeling that this House Joint Resolution 559 does not contain any compulsory language on the carriers to negotiate if this were passed in the intervening 2-year period? Is that your thought? I think you said this other award apparently didn't have that conclusive language in it. Is it your thought that this bill does not contain that either?

Mr. SCHOENE. My thought is that this does contain such language, and the bill that became 88–108 also did. Nevertheless, in spite of this testimony—and this is what Mr. Wolfe said about that bill when it was under consideration. He said:

> It imposes a duty on the parties to attempt to settle their differences and protects the public interest as a result of the establishment of these interim rules for a period of two years or less, while the parties undertake, through collective bargaining, to bring about a more permanent solution of the problems.

Nevertheless, he changed his mind after so describing the bill, and the district court agreed that there was no duty to bargain in the interim.

Mr. SPRINGER. May I ask you, Counselor—you are making a very fine presentation here—what language would you incorporate in this to make it specific that there is a duty in the intervening 2-year period, should this become law? You do not advocate the bill, I understand, but I am trying to get whatever language you may suggest.

Mr. SCHOENE. I do not think there is any language you can put in there that will adequately enforce the obligation to bargain. I don't think you could make it any plainer than Congress made it under Public Law 88–108, that there was the obligation to bargain during the interim.

The court of appeals reversed the district court on this point. It is now established by the court of appeals that there was this duty to bargain in the interim.

Mr. SPRINGER. In other words, what is the effect as of this minute today? Is it, unless they go to the Supreme Court, they do have a duty to bargain in the 2-year period?

Mr. SCHOENE. That is right.

Mr. SPRINGER. That is the law today?

Mr. SCHOENE. That is the law today. One year after the award has expired we are finally told by the court of appeals that all during the 2-year period that the award was in effect they had the duty to bargain.

A lot of good that does us now.

Mr. SPRINGER. Thank you, Mr. Chairman.

Mr. SCHOENE. There is another interesting issue in this decision of the court of appeals that was handed down a week ago Friday. The district court had even held that the effect of the law was to limit the nature of the proposals that the Brotherhood of Locomotive Firemen and Enginemen might be able to make with reference to employment of firemen on diesels after the award had expired.

The district court found in the law a new standard of what kind of proposals could be the subject of collective bargaining, and said that the brotherhood could not even propose, in collective bargaining, new rules that would restore some of the firemen that had been taken off.

Here again the court of appeals reversed the district court, but in a year after the expiration of the award the firemen are told that they can validly propose a restoral ion of the jobs.

Gentlemen, this shows you what you can get into when you propose or enact compulsory arbitration. In my judgment, there could not have been framed a more carefully drafted law imposing compulsory arbitration than the one that was enacted in 1963, and yet its effect has been disastrous, extending way beyond the contemplated period of the award.

Now I want to turn to another subject, the alternative of seizure which previous union witnesses have advocated as an alternative if you feel that some congressional intervention is indeed necessary.

So far, however, we have not had much discussion as to what elements of seizure should go into a seizure bill if that alternative were to be adopted.

It appears that there are many different kinds of possibilities with respect to seizure. I would like to discuss some of those very briefly with you.

First, however, I should like to point out that seizure should not be regarded as a punitive action. I don't think we should view this whole

situation as one in which either the carriers or the unions have done something wrong and deserve to be punished.

They simply haven't been able to agree. Punitive consequences should not attach to being unable to agree.

However, at this point a very important factor enters the picture. If Congress decides that the risk of a strike actually occurring is too great and that some legislative action must be taken, then I submit to you that the appropriate action has to be action which avoids requiring unwilling employees to work at rates of pay not acceptable to them for the private profit of corporations.

If congressional action is necessary to keep the railroads running, it seems to me that the only way in which the objective that I have just stated can be fulfilled is by some form of seizure.

This raises a question of what should be the instrumentality of seizure. Various approaches have been suggested and are embodied in various bills pending in the Congress. One is receivership in the courts rather than through the executive branch. That approach is embodied in a bill recently introduced by members of this committee—Congressman Adams for one, House Joint Resolution 585.

On the Senate side, Senator Javits has advocated that approach, and this approach is also to be found in a bill that Senator Morse introduced at the time of the airline strike. That was in the previous Congress, Senate Joint Resolution 180.

On the other hand, there is a different approach; namely, seizure by the Executive pursuant to congressional authorization. I think all seizures in the past, either in the railroad industry or of other industries at the time seizure was authorized during the war, took the form of Executive seizure. So far as I know, there is no precedent for the use of receivers in the process of seizure.

I call attention to the fact that the chairman of this committee, Mr. Staggers, in a speech on the floor of the House on the 19th of April, proposed if the seizure alternative were followed that—

> During the period of government control, control should be exercised by a special three-man board appointed by the President, with full power to make all managerial decisions, and, further, that all proceedings relating to the railroads before a government department or agency in which the railroads are applicants be halted until the railroads are returned to private hands; and, further, that all labor organizations be enjoined against issuing any official directive that might cause or tend to cause any cessation in the operations of the railroads.

This question as to the instrumentality of seizure has been given detailed consideration by the chief executives associated in the Railway Labor Executives Association. It is their unanimous belief that the Executive form of seizure is preferable to the use of receivership. There are several reasons for that conclusion.

In the first place, they are apprehensive of the courts. They are what I call court shy. And with good reason. Labor has never fared well in the courts. You are all familiar with the long struggle to enact the Norris-La Guardia Act to prevent the running of labor relations through injunction, and finally a great victory was achieved in 1932 through the enactment of the Norris-La Guardia Act, depriving Federal courts of the jurisdiction to issue injunctions in labor disputes, except under very limited circumstances of violence and public disorder.

I am sorry to report, gentlemen, that in the years following 1932 the Norris-La Guardia Act has practically been erased through judicial decisions.

I recall just a short time ago sitting in a board of directors meeting of the directors of one of these organizations and one of the members of the board made the remark that there ought to be a law which would deprive the courts of jurisdiction to issue injunctions in labor disputes.

I said, "Well, there is such a law on the books now." He looked at me incredulously. I tried to explain what had happened to that law, but I think he still thinks I was pulling his leg. There can't be such a law as I described on the books, or else how would all these injunctions get issued.

Further, and again advertising to what has happened under Public Law 88–108, these brotherhoods are smarting under maladministration of that law in the district courts.

So it is their recommendation, and very strong recommendation, that if you should enact seizure, the instrumentality of seizure would be in the executive branch.

Further, I think it is fair to say that the executive branch is more appropriate to making the kind of decisions that have to be made in running a nationwide railroad system.

Receivership was developed by the courts as an instrumentality largely for dealing with the question of insolvency. If a business became insolvent, but it had a going concern value so that it couldn't practicably be liquidated or shouldn't be liquidated, receivership was a way of administering its affairs for the benefit of creditors. But here we have an entirely different kind of proposition. It is the kind of thing that more appropriately calls for action in the executive field pursuant to congressional authorization.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Counselor, you are distinguishing here, as I understand it, the difference between a going concern and, we will say, the East Coast Railway, is that your thought? The East Coast Railway, as I understand it, has been in receivership for about 30 years, roughly in that neighborhood. You are familiar with it?

Mr. SCHOENE. It was, Mr. Springer, but it has been out of receivership for a while.

Mr. SPRINGER. You are right. But you are talking about that as a receivership where there apparently was insolvency over a long period of time, as distinguished from the problem of a going concern.

Mr. SCHOENE. Yes.

Mr. SPRINGER. It is a distinction of what kind of administration ought to take over in case of seizure. Am I right?

Mr. SCHOENE. That is exactly right, Mr. Springer.

Mr. SPRINGER. Thank you.

Mr. SCHOENE. Another issue which has been discussed in connection with seizure is whether seizure should be complete or partial.

If I may again refer to Senator Javits' bill, his bill, I think, contemplates that it would be possible to operate the railroads only to the extent that is necessary to protect the national defense and the public welfare, and provides for the court, through a receiver, to make the determination of how much operation would be necessary.

In this connection, I would point out to you that if operation only to that extent is desired, then you have before you a plan, a specific offer, by all the railway labor organizations voluntarily to operate the railroads to that extent during a strike.

I do not see the necessity for any congressional action if that kind of operation is deemed satisfactory.

During the discussion of this matter in the Senate an interesting suggestion was made by Senator Pell—I am not saying he proposed this—it was suggested only as a thought for consideration—which he called fiscal seizure. He didn't spell it out and in my description of it I am giving it the attributes which I ascribe to it and not necessarily representing that this is what Senator Pell had in mind, because I am guessing at what he had in mind.

As I understand that proposal, it would leave the management and operation in private hands, in the hands of the railroad corporations, but in order to avoid what I have described as the odious element of compulsory arbitration; namely, that unwilling employees would be compelled to work for the profit of private corporations at rates of pay not acceptable to them, it would provide for appropriating to Government account the net proceeds of operation.

I would suppose that under such a system, under Government supervision, the operating expenses would, of course, be paid out of the proceeds of operation, and, in addition, I suppose provision would have to be made for meeting the fixed charges, taxes, interest, and other items of that kind which would be considered legitimate charges against operating revenue in order to arrive at net revenues from operation.

Then the net revenues would be appropriated to the Government account.

I hadn't thought of that approach until Senator Pell mentioned it, but now that I think of it I am rather fascinated by it. I do commend it to you for your consideration.

You may find bugs in it when you consider it, but I think it is well worth considering that possibility.

There is a third consideration that I believe you must give attention to when you consider seizure. That is how are labor relations to be conducted during the period of seizure. That, I think, falls into two categories: You have on the one hand the employees involved in this dispute. What is to be done about this dispute during the period of seizure? But then in addition you have half a million other employees on the railroads represented by some 17 other unions. Certainly a period of seizure ought not to interrupt the normal conduct of labor relations with those unions. They all have various matters in process, in negotiation, all the time concerning adjustments in their rules, new rules, some of these contemplated changes being of a national scope and others local. And, of course, the handling of employee grievances is something that has to go on daily on every railroad in the country.

So I would most strongly urge upon you that in any seizure bill a provision be made that the Railway Labor Act shall continue to govern the handling of labor relations in all areas except the area of this dispute.

I might mention, by the way, that this is one of the major faults that I find with Mr. Adams' bill, House Joint Resolution 585. He is silent

on that score, and I would recommend that if consideration is given to that proposal this deficiency be remedied.

Next we come to the question as to what do you do with the dispute that is causing all this. That dispute is unsettled. Should the Government, during the period of seizure, leave it in the laps of the parties, leave in effect the rates of pay that are now in existence? Or should it put in some partial change, such as the recommendations of the Fahy Panel, or the recommendations of this special board that is proposed in this bill? Just what should be done in those areas?

Here, again, I refer to House Joint Resolution 585 and point out that, as I understand it, the bill would provide for putting into effect during the interim the results of the findings of this special board, subject to being superseded by any agreement the parties might make.

I might point out that such action in the context of seizure, where there is an incentive on the part of the carriers as well as the unions to make a superseding agreement, loses much of the odiousness that it has in the President's bill by itself.

Nevertheless, I would recommend—and here, again, the chief executives that I represent are in unanimous accord on this—I would suggest that you leave those parties right where they are, leave it to them, through collective bargaining during the period of seizure, to work out an agreement for themselves, and then terminate the seizure upon their making such an agreement.

Mr. SPRINGER. Counselor, you were referring to Mr. Adams' bill which I read the other day.

Did I understand you to say that you would leave the parties on these issues in the case of seizure exactly where they are today to negotiate?

Mr. SCHOENE. Yes. I think that would be the fair thing to do.

Mr. SPRINGER. The reason I asked that was because you mentioned Mr. Adams' bill. As I read Mr. Adams' bill it provided that the second board recommendations would be implemented immediately. Is that correct?

Mr. SCHOENE. That is the way I read it, too, Mr. Springer.

Mr. SPRINGER. You are not advocating that here today, is that correct?

Mr. SCHOENE. No. I think it is preferable to leave it to collective bargaining, although at first blush it might appear that Mr. Adams' proposal is more favorable to the employees because almost certainly they would be working for increased rates of pay during this interim period.

Mr. SPRINGER. I just wanted to be sure that what you were advocating was Mr. Adams' bill.

Mr. SCHOENE. My proposal is that you leave the parties to the dispute just where they are and in no way prejudice their collective bargaining handling of the dispute.

Finally, in connection with seizure, there is a very important consideration of how just compensation to the railroads is to be determined in return for the seizure. In past seizures most often the result has been that the proceeds of operation are simply turned over to the seized company and they settle their claim for just compensation in return for that.

That, it seems to me, defeats the whole purpose of seizure, because the net result is that although during the period of seizure the employees are nominally working for government account, in the end all the profits of that operation, at rates which the employees are unwilling to accept, do accrue to the private corporations.

So what I consider the major objective of seizure is defeated by that process.

A different approach has been suggested. It was contained in Senator Morse's bill last year, Senate Joint Resolution 180. There he provided for the determination of just compensation, taking into consideration the fact that the airlines wouldn't have been operating at all if it hadn't been for Government intervention.

That seems to me to be a sound approach. When it comes to determining just compensation you cannot start with the assumption that the carriers are entitled to compensation as though nothing had happened. There is no profit in a struck railroad, and they should not be compensated as though there was no threat of interruption to their operations.

This same approach is embodied in House Joint Resolution 585, and I think it is the only sound approach to any consideration of seizure.

Details may differ, but the important thing is the principle that compensation should be determined in light of the fact that there would have been very heavy losses and no profits incurred by the railroads if Congress had not stepped in.

That, Mr. Chairman, concludes my statement.

The CHAIRMAN. Thank you very kindly, Mr. Schoene. I have one question that I would like to ask you.

What is to prohibit a small group of railroads being struck, say six across the land, for instance?

Mr. SCHOENE. I really don't know the answer to that question, Mr. Chairman. I thought before the district court decision in the *Brotherhood of Railroad Trainmen* case that I adverted to concerning the national handling— I thought, before the district court decision in that case was made, that the answer would be nothing is to prevent it.

In view of that decision—which I expect will be reversed by the court of Appeals—it hasn't been decided by the court of appeals yet—I think very likely that if the shopcrafts were now to strike some of the railroads, the right to do so would be legally challenged. I think they would probably ultimately prevail against such a challenge, but very definitely the possibility is there.

There is also a very serious practical problem about that. Mr. Leighty testified on this subject. The carriers, for strategic reasons related to just this possibility, make it a point to serve some pretty horrendous counterproposals whenever the unions make a proposal. When the time comes for self-help, if the unions were to strike, say, a half dozen railroads, undoubtedly the carriers would put their counterproposals into effect on all the other railroads and thereby force the spreading of the strike, or else force the employees to live under the working conditions imposed by the counterproposals until they could, in turn, reach those railroads and strike them individually.

The CHAIRMAN. You referred to Public Law 88–108 and talked of what the courts had done. I would like to call your attention to the

Congressional Record for August 28, 1963, in which the then chairman of the committee and I had a colloquy in order to clarify this point especially for the record and for the courts.

I asked the chairman, Mr. Harris:

Mr. Chairman, I would like to again repeat what is in the preamble to this resolution: "Whereas, on August 2, 1963, the Secretary of Labor submitted to the carrier and organization representatives certain suggestions as a basis of negotiation for disposition of the Firemen-Helper and Crew Consist issues in dispute and thereupon through such negotiations tentative agreement was reached with respect to portions of such suggestions."

Mr. HARRIS. As far as issues involved here are concerned, which I insist we keep in mind, there were certain parts of those issues on which agreements had been reached. There were certain parts of them on which tentative agreements had been reached. There were certain parts of them on which no agreement had been reached.

Again I asked the question of Mr. Harris:

In the amendment which has been offered by the gentleman from Arkansas, the following is stated: "The Arbitration Board shall incorporate in such decision any matters on which it finds the parties were in agreement." That means as of that date.

Mr. HARRIS. That is a direction to the Arbitration Board of standards which the Congress establishes for the Board to follow.

Again, another question:

Further, "shall resolve the matters on which the parties were not in agreement"?

Mr. HARRIS. That is the purpose of this resolution, to solve those problems not reached in collective bargaining.

Then I asked Mr. Harris:

One further question with respect to this. There is also the statement "shall in making the award give due consideration to the matters on which the parties were in tentative agreement." That is a direction to the Board.

Again, that would be the intent of this resolution and it should be carried forth?

Mr. HARRIS. Not only a direction, but the Act would so provide.

I was trying to make clear what the act provided, that it should start on the basis of the agreements reached between management and labor, it should incorporate them, and it so states in the act and so stated here as the intent of the chairman and myself in colloquy on the floor at that time.

You say the courts ignored this?

Mr. SCHOENE. They did.

The CHAIRMAN. I don't see how we could make clearer what the intent of the Congress was. I wanted to be sure that this was the intent. I knew the words of the act, but I wanted to be sure that this was the intent and that he was so interpreting it as the intent of the Congress. You say the courts did ignore this?

Mr. SCHOENE. They did.

I thank you for putting this colloquy into the record here. I took a great deal of comfort from it at the time. I quoted it to the arbitration board in the arbitration proceedings as being the standard that should govern them.

I quoted it again in the impeachment proceedings. But the court said:

Obviously, the purpose of the clause was to point the attention of the Board to any agreements reached in order that the Board might give them due weight, but not to limit its discretion in arriving at a final decision.

The CHAIRMAN. I don't think that is what this colloquy points out. It points out these were definite and final, and that this was the intent of this committee and the Congress.

Mr. SCHOENE. That is right.

The CHAIRMAN. That was on the floor before the vote was taken, just before it was taken, as I recall.

I don't see how we could make clearer to the courts of this country that this was the intent of the Congress.

You mentioned the fact about the Fahy proposals, that you did not think that the recommendations of Emergency Board 169 should be put into effect if we pass a law here.

Mr. SCHOENE. That is my feeling; yes.

The CHAIRMAN. But you do feel that if we are going to pass any resolution, it ought to affect both sides to some degree.

Mr. SCHOENE. Yes; I think it should. It should be evenhanded.

The CHAIRMAN. That is what I mean. It should not be punitive in any way, to penalize either one, but to say, "Let's get together."

Mr. SCHOENE. That is right.

I think seizure on the one hand with the provision that until the parties to this dispute agree, the personnel will work at present rates of pay until they arrive at an agreement disposing of the dispute, I think that is fair to both sides.

The CHAIRMAN. I would like to clarify just one more point: Compulsory arbitration and voluntary arbitration. Frequently when two parties do not agree or cannot reach an agreement on an issue, they say, "We will leave it up to a third party," and they pick the party and both agree. That is voluntary arbitration.

Mr. SCHOENE. That is right.

The CHAIRMAN. But when you have an outside force that says "If you don't reach agreement, we will appoint somebody to make the agreement for you," that is compulsory.

Mr. SCHOENE. That is correct.

The CHAIRMAN. Even beyond their wishes, saying, "We will impose something on you as freemen that maybe you won't like, one of you, or either one of you." That is compulsory.

Mr. SCHOENE. That is my understanding.

The CHAIRMAN. There has been some misunderstanding about compulsory and voluntary arbitration. That is why I wanted to clarify it for the record. There is a difference when men voluntarily agree to get outside parties to come in and it makes a finding, if they agree to arbitration it is usually a binding finding.

Mr. SCHOENE. That is correct. I have participated in many such arbitrations. I think voluntary arbitration is a very useful instrumentality in labor relations. But compulsory arbitration is just as bad as voluntary arbitration is good.

The CHAIRMAN. Mr. Friedel.

Mr. FRIEDEL. Mr. Schoene, it was stated that you both disagreed with the last Fahy report. Management said they agreed in part, and I understand the unions disagreed with the report. Let's see how far we are apart on the Fahy report.

I think the last counterproposal made by the unions was 6½ percent and 12½ cents for the first year and 12½ cents for the second year.

Is that correct?

Mr. SCHOENE. As I understand it also, a general increase of 5 percent for the second year.

Mr. FRIEDEL. And 5 percent for the second year?

Mr. SCHOENE. That is my understanding. I will say, Mr. Friedel——

Mr. FRIEDEL. No, your proposal, not the Fahy report. Your last proposal was for 6½ percent and 12½ cents for the first year, and then 5 percent and 12½ cents for the second year.

Mr. SCHOENE. That is my understanding. But I will say that I did not represent the shop crafts in these negotiations. I am really talking by hearsay, really the same hearsay that you have.

Mr. FRIEDEL. I am just trying to get down to the basics.

The Fahy report recommended 6 percent instead of 6½ percent, and 5 cents, 5 cents, and 5 cents for each succeeding 6 months, for 18 months. Suppose they made it another 5 percent for the other 6 months, making it 20 cents, you are asking for 12½, and 12½, or 25 cents for the 2-year period, and if they put 5 cents more on for the next 6 months it would be 20 cents instead of 25 cents. It would be done in four quarters instead of 12½ percent 1 year and 12½ percent another year.

Are they too far apart with these figures?

Mr. SCHOENE. Well, I might say——

Mr. FRIEDEL. Excuse me. They also said they would make further study on the inequities after the 18-month period.

Mr. SCHOENE. Now you are within an area that I think only the shop craft representatives can speak to. I am counsel for the Railway Labor Executives' Association, and not counsel for the shop crafts in these negotiations.

Mr. FRIEDEL. Mr. Chairman, I would like to make a suggestion.

I would like to make a suggestion that we stop the hearings for 1 week, postpone them for 1 week, and get the unions and management together and see if they can't work out some kind of arbitration without us passing this legislation.

The CHAIRMAN. Mr. Friedel, I might say in response to that, that the hearings are going to have to be stopped for a week anyhow, whether we want to or not, because the House will be out of session for almost a week. If we can get the two parties together and talking, that will take care of the other part of your suggestion.

Mr. FRIEDEL. I hope they do.

The CHAIRMAN. We will see what can be done.

Mr. FRIEDEL. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Schoene, I want to see if I can get your opinion on the distinction between what you have presented here and what Senator Morse is talking about. I am reading from the Congressional Record of May 4 in answer to a Senator who made inquiry about the distinction between compulsory arbitration, between what this fellow understood was compulsory arbitration, and the distinction Senator Morse was trying to make.

I read as follows:

Further, may I say—

And this is from the May 4 Congressional Record, page S6405—

that in arbitration you do not have mediation. In arbitration it is a straight judicial process. When you walk into an arbitration room you walk into a courtroom and the case is decided on the basis of the evidence before the board of

arbitration as before a court, with the proponent of each issue having the burden of proof upon it, and the responsibility of sustaining its burden of proof on that issue. But the procedure involved in this resolution is not arbitration in that sense.

This resolution, may I say, provides basically for a procedure calling for extended collective bargaining and mediation ending up if necessary with a ruling of finality on the part of the Government ordering a continuation of the operation of the railroads on a basis of a reasonable application and adaptation of what would seem to be a fair and equitable compromise of the position taken by the parties in collective bargaining and mediation.

Out of all that speech, I think those are the two pertinent paragraphs. Could you comment on that now, if you would, as a lawyer? I am sure you have had extended experience in this field.

Can you refine this any further, or make any clearer distinction between what he is talking about and what you have in mind?

Mr. SCHOENE. I will be glad to comment on it. As I said in the course of my remarks, I have the greatest respect for Senator Morse. He is an outstanding authority in the whole field of labor relations as well as in arbitration.

Senator Morse has set up a definition of arbitration, and he says that everything that falls outside of that is not arbitration. I also said in the course of my remarks that I have no quarrel with Senator Morse's right to make his own definition of arbitration. But, in my experience——

Mr. SPRINGER. May I just refine this a little further?

I think we make this distinction, counselor. He is talking about arbitration as a judicial process, in which you sustain your own position and you finally arrive at a decision.

He is saying, in effect, as I understand it in some of the other paragraphs, that he is using the word mediation leading to finality. He is talking about mediation leading to finality as different from arbitration.

Do you agree with that distinction?

Mr. SCHOENE. No, I don't. I think arbitration in practice is a much broader term than the term as Senator Morse has defined it.

To me, everything that puts in the hands of third parties the power to make a binding decision, however you call it, is arbitration, and if it is done compulsorily, it is compulsory arbitration.

If it is done by voluntary agreement of the parties, it is voluntary arbitration, as the chairman has pointed out. In practice, arbitrators, in my experience, have departed from the strict procedures that Senator Morse sets up as characteristic of arbitration, and not only engage in mediation but in what I have called concurrence shopping, of trying to effect a compromise through the process of arbitration.

Mr. SPRINGER. In effect, you are saying what is talking about, mediation leading to finality, is arbitration.

Mr. SCHOENE. That is correct.

Mr. SPRINGER. Mediators ordinarily try to settle a matter between two parties. In arbitration, you are talking about where they have the right to make the final decision. All of that is arbitration, reagrdless.

Mr. SCHOENE. That is my position.

Mr. SPRINGER. Now let me read, if I may, from the record of the Committee on Labor and Public Welfare of the U.S. Senate, volume 5, at page 614. This is Senator Morse whom I am quoting:

If you are going to go there by arbitration in this case, their using labels does not make the President's proposal arbitration. It simply shows a complete

lack of comprehension of what arbitration is as a matter of law. If you are going to resort to arbitration, let me say to the carriers, let me say to the brotherhood, you have erased the blackboard and you have to start writing on the blackboard again. But this time the blackboard will be the arbitrator's blackboard and you are going to put your evidence on the blackboard and he will make a summation by way of a judicial decision when he, or the board, go through.

That is all I want to say, but I want to nail it down because in some way, somehow, I hope before we get through with our deliberation of this matter, we can get both the carriers and the brotherhoods to understand what we are talking about when we are talking about arbitration.

What comment have you on that? He is apparently talking in a different language from what you are talking in here today. I want to be sure we don't misunderstand ourselves.

Mr. SCHOENE. I think what you have just read is another way of making the same distinction as the Senator made on the floor in the quotation which you previously read. Unquestionably, he defines arbitration differently from the way I do.

Mr. SPRINGER. Now let me read, if I may, from the same record, volume 5, of Mr. Dunlop. This is a part of his statement I read at page 613.

The point that I think is not adequately clear is that if compulsory arbitration were to be adopted in this case, as traditionally understood, the crucial question would seem to me to be what are the issues to be arbitrated.

I skip a little bit at this point. I go now to line 17.

There are a whole host of these issues which in every technical sense are allied with this case. Somebody would have to hear all those issues. It opens up the possibility of introducing enormous new changes in the industry over some 30 issues which, in the bargaining reality, are not allied, but in the technical sense they would be open for compulsory arbitration and absolutely be subject to litigation in the kind of courtroom fashion which you so well describe, Senator.

What is Mr. Dunlop saying?

Mr. SCHOENE. I think he is saying that he agrees with Senator Morse.

Mr. SPRINGER. In essence, that is what he says.

Mr. SCHOENE. I think so.

Mr. SPRINGER. This is a little hard for me as a lawyer to get, but I wanted to be sure we got into the record as to what had been said on the other side.

I have one further question at this time, Mr. Schoene.

I understand that you would leave the parties free to negotiate while the railroad property was under seizure. But if the Government had stepped in and is managing the property, as was contained in Chairman Staggers suggestions which you read earlier, is it not the Government that will be negotiating over the wage rate?

Mr. SCHOENE. I woud say the Government managers would be conducting labor relations in accordance with the Railway Labor Act as to all the personnel other than those involved in this dispute.

Mr. SPRINGER. We have that distinction clear.

Now, is this what was done when Secretary MacAdoo seized the railroads in World War I?

Mr. SCHOENE. Yes.

Mr. SPRINGER. He had the right to arbitrate all of these issues, including wage rates?

Mr. SCHOENE. He negotiated them. Of course, we didn't have the Railway Labor Act at that time, but he did negotiate rates of pay, rules and working conditions, and many of these unions made very substantial progress in the development of better rates of pay, better rules, and better working conditions during that period. They did it in negotiation with the Director General.

Mr. SPRINGER. But you are not contending, as I understand it, that there would be anything in this dispute that would be subject to negotiation in this procedure?

Mr. SCHOENE. Not with the Government as far as this dispute is concerned. I would say that that was a job for the carrier managements and the unions involved in this dispute to settle by their own bargaining process.

Mr. SPRINGER. Thank you.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

In your discussions with the chairman pertaining to voluntary and compulsory arbitration, I was wondering what was standing in the way presently of voluntary arbitration.

Mr. SCHOENE. I don't know. I just have no information on that subject, Mr. Macdonald.

I am not the proper witness with whom to pursue that question.

Mr. MACDONALD. I see Mr. Ramsey here. He testified yesterday. Perhaps I should have asked the question yesterday.

I quite agree with you, since everyone is discussing their opinion about various definitions, that the mediation with finality seems to me a very fuzzy definition of compulsory arbitration.

But also I would like to have you explain an otherwise very clear statement, this point on page 9 of your statement. You say:

> The only answer is collective bargaining to an agreement, prodded perhaps by resort to, or the imminence of self-help.

I don't understand what that means.

Mr. SCHOENE. That is a euphemism for strike.

Mr. MACDONALD. Thank you.

The CHAIRMAN. Mr. Devine.

Mr. DEVINE. Mr. Schoene, we are happy to have you with us this morning. Your reputation has preceded you as one of the most able lawyers in the labor field.

Mr. SCHOENE. Thank you. I wasn't aware of that.

Mr. DEVINE. I have made inquiry and I understand you are known as a lawyer's lawyer in this field and you know all about the nuts and bolts of the Railway Labor Act, and how it is applied to situations.

I understand you to be here as counsel for Mr. Leighty and the Railway Labor Executives' Association, and you do not represent Mr. Ramsey nor his shopcraft unions.

Is that accurate?

Mr. SCHOENE. That is accurate, except as the shopcraft unions, of course, are associated with the Railway Labor Executives' Association. But it is in a capacity as counsel for the association and not for the shopcraft groups specifically that I appear.

Mr. DEVINE. Do I understand that the brotherhoods under the jurisdiction of the RLEA have settled their differences with railway management and are not directly involved in this dispute?

Mr. SCHOENE. They are not directly involved in this dispute, but there are some other organizations that have not settled their current wage dispute.

Mr. DEVINE. Let us get to a few items at this point.

Yesterday, Mr. Ramsey, in his statement, said:

> On behalf of the members of all the organizations, I wish to express our most vigorous opposition to the administration's bill, H.J. Res. 559.

Do you represent opposition to this bill, too?

Mr. SCHOENE. Yes, sir.

Mr. DEVINE. You also said that this legislation is just what railway management wants.

Mr. SCHOENE. Yes, sir; and I think that is true.

Mr. DEVINE. Prior to this legislation being introduced—and I was amused a little about your comment about the press notices surrounding this particular resolution—a number of us from this committee, and some key Cabinet people were called to the White House—there is no secret about that—prior to this legislation being introduced.

We read about it on the way down there, about what was going to happen. But when you say this is just what railway management wants, do you feel that President Johnson is management-oriented in this picture?

Mr. SCHOENE. No, I don't think it would be fair to characterize the President that way.

Mr. DEVINE. Let us take some more people who were there. Secretary of Labor Wirtz was there, and his right-hand man, Jim Reynolds, was there. Do you think those two genltemen are management-oriented that they would support something that is just what management wants?

Mr. SCHOENE. I don't think there is a promanagement orientation of any of the people who were there. I think they did their best to advise the President of what they thought was right. But what they came up with——

Mr. DEVINE. Let us go just two or three more steps.

Mr. Katzenbach, the former Attorney General, was there. A former Secretary of Labor, a former Justice of the Supreme Court, and now the Ambassador to the United Nations, Mr. Arthur Goldberg was there apparently in support of this.

The Attorney General, Ramsey Clark, who didn't take a position for or against but who did suggest it was constitutional was there.

I find it difficult to believe that these people would all be in support of something that is "Just what railway management wants."

Mr. SCHOENE. I can't escape the conclusion that that is what they came up with, even though I say I do not accuse them of conscious bias. But the record before this committee speaks for itself.

The railroads certainly are advocating the enactment of this bill. Their conduct up to this point, in relation to this dispute, as well as their record since 1950, shows that they are in favor of compulsory arbitration.

It is true, I think that it would be more pleasing to the railroads if they could get a bill that would substitute compulsory arbitration generally for collective bargaining in the handling of railway labor disputes. They would like that even better.

But if they can't get that much at this time, they will be very much pleased to get what the President has recommended.

Mr. DEVINE. Then as I understand it you do not accuse them of conscious bias.

Conversely, I don't think you would want to go on the record as accusing them of unconscious bias.

Mr. SCHOENE. I will let the record stand on what I have already said.

Mr. DEVINE. Thank you.

That is all, Mr. Chairman.

The CHAIRMAN. Mr. Van Deerlin.

Mr. VAN DEERLIN. My colleague from Massachusetts has requested that I yield briefly.

Mr. MACDONALD. And it will be very brief.

Thank you, Mr. Van Deerlin.

When you said, Mr. Schoene, that there were unions which haven't agreed to terms, it brought back, fleetingly, a recollection of an editorial in a sometimes accurate newspaper which I read within the last week or so, which said, I think, the conductors and some other union, unless their terms are met, are going out on strike.

I forget the date. What was it, June 2?

Mr. SCHOENE. I think June 2 was probably the date that was mentioned because it is my understanding that they are free to strike as of that time if an emergency board is not appointed.

Mr. MACDONALD. Would they be covered by the resolution that we are now considering?

Mr. SCHOENE. I do not so understand it.

Mr. MACDONALD. Wouldn't it seem foolish—I don't suppose you can run passenger trains without conductors on them—or wouldn't it seem peculiar for us to go around and around the mulberry bush as we have been going on this particular thing and come out with this resolution that puts the shop craft unions back to work and then have another pair of unions go out on strike on June 2 who are not covered by this resolution?

Wouldn't that bring as much chaos as has been indicated this strike might bring?

Mr. SCHOENE. The procedures of the Railway Labor Act have not been exhausted with respect to the conductors dispute. As I understand it, they are free to go on strike on June 2 if no emergency board is appointed by that time.

Judging from past experience, I would feel fairly certain, and certainly the President has the power to appoint an emergency board and set in motion further procedures of the Railway Labor Act which hopefully will result in the disposition of that dispute, as normally happens.

Mr. MACDONALD. But if it didn't—and I am sure the Board would be appointed—say the bodies couldn't resolve their dispute, the same as the shop craft unions have not been able to, wouldn't that lead to a national strike with no relationship to this joint resolution?

Mr. BROWN. Would the gentleman also ask for the timing on that?

Mr. SCHOENE. There would be a minimum of 60 days following the appointment of the Board in which no strike could legally occur. The Board had 30 days to investigate the dispute and make its report.

Thereafter, there is another 30-day period in which the parties must maintain status quo.

Mr. MACDONALD. My point is, if we go through this rather abrasive type of hearing, isn't it perfectly possible that within a very short period, when these other unions can't get together with the carriers, we will be going back up the same mountain, as they are fond of saying here in the Congress?

Mr. SCHOENE. That is entirely possible, Mr. Macdonald. But it is my most sincere judgment that you would encourage that by the enactment of the President's proposal.

In 1963 the carriers wanted compulsory arbitration. They got it and they have enjoyed the fruits of it very much.

If they again get compulsory arbitration as I pointed out I think they want, in response to Mr. Devine's question, I think you will be encouraging them to be adamant in the conductors dispute and have another crisis, and come back here and say, "You have to bail us out again."

Mr. MACDONALD. With another resolution heading toward another compulsory arbitration?

Mr. SCHOENE. With another resolution. And they will be urging more strongly than ever the time has come for general legislation outlawing strikes and substituting compulsory arbitration generally.

Mr. MACDONALD. Thank you, Mr. Van Deerlin.

Mr. VAN DEERLIN. In the event of Government seizure on those roads where expenses might outrun income, have you done any thinking as to whether the Government would be compelled to make up as the difference, or just what circumstances would prevail on losses as opposed to profits?

Mr. SCHOENE. I have not pursued that very far but I will say, I am not sure whether the New Haven Railroad is in here or not, but it is about the only railroad that I can think of, on which operating expenses exceed operating income.

Mr. VAN DEERLIN. And Central of New Jersey might be in that situation.

Mr. SCHOENE. Central of New Jersey might be in that situation, I don't know.

But I would certainly feel that while the Government might have to meet operating expenses if there is an operating deficit, it might have to meet the operating deficits through general revenues, there would certainly be no obligation to pay other charges than operating charges, such as interest, taxes, and so forth.

I think if you limit your expenses to operating expenses, there would be very little chance of a deficit.

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Harvey.

Mr. HARVEY. Mr. Schoene, in your written statement that you submitted here this morning, you made two points that I think are very, very worthwhile.

On page 6 you pointed out that under House Joint Resolution 559, the final 30-day negotiating period is literally meaningless because actually neither party would negotiate.

I think that is a valid point. The 30-day period is meaningless.

My question is: If the committee should see fit against your recommendation to pass out House Joint Resolution 559, do you feel that it would be helpful to take that 30-day period and insert it before the period of the findings of the Special Mediation Board, in other words, to have 60 days at the beginning and then the hearing and then to put the findings into effect?

Mr. SCHOENE. That might be a more effective utilization of the time, but I think the difficulty that you point to, and which I pointed out in my statement, is more extensive than that. I think the difficulty runs to the whole 2-year period that the determinations by the Board would be in effect, because once those recommendations are put into effect one side or the other is likely to feel that it is a better deal than can be negotiated. You will have a very difficult time getting agreement on any other terms.

I think that will go for the whole 2-year period.

Mr. HARVEY. I would concur with you wholeheartedly.

My question was, Do you think the 30-day period before the Special Board begins to hold hearings is adequate or would that additional 30-day period, making it 60 days before the hearing, be better, in your judgment?

Mr. SCHOENE. I say I think it might be a better utilization of the time.

Mr. HARVEY. In other words, if there is going to be any true negotiation or bargaining, it is going to take place before the hearings occur, under this bill; is that correct?

Mr. SCHOENE. I think so. That is my judgment.

Mr. HARVEY. So in your judgment it might be useful to take the final 30-day period and put it before the hearing, giving greater time for bargaining before the hearings are held.

Mr. SCHOENE. I think that is probably so.

Mr. HARVEY. Thank you.

On page 8 of your statement, Mr. Schoene, you pointed out very validly, I think, that House Joint Resolution 559 fails to set up any procedures for the handling of disputes and in carrying out the findings of the Board under this particular resolution.

I think we would welcome some amendment to that which would provide for the handling of disputes and carrying the findings out. In other words, a continuation of either the ability to negotiation or further arbitration under any circumstances.

Mr. SCHOENE. That was the experience under Public Law 88–108.

Mr. HARVEY. That is the one you said you have just found out now that they should have been negotiating.

Mr. SCHOENE. That is right.

Mr. HARVEY. My question is, You would welcome the Congress spelling out that fact in this particular legislation right now?

Mr. SCHOENE. I think it would be an improvement. There were almost 300 requests for interpretations, as I recall, under Public Law 88–108. There were that many disputes as to what the award meant.

Pursuant to the procedures of the Railway Labor Act that were made applicable to that arbitration, the Board continued to make interpretations of its award. Probably inasmuch as this is a rate-of-pay question, there wouldn't be as many arguments, undoubtedly, about what they meant as there were in that case.

But if there is going to be compulsory arbitration, I should think it would be useful to provide some way of getting the interpretations of the arbitration award in case dispute arises as to what it means.

Mr. HARVEY. I have just one other question. Yesterday when Mr. Ramsey testified, he testified in answer to my question and said he didn't believe any of the past boards or panels had been necessarily prejudiced or biased, antilabor or promanagement, but he said, rather, they were following, in his judgment, the instructions or the advice of the President's Economic Adviser, Mr. Gardner Ackley. Do you concur in that judgment?

Mr. SCHOENE. I have no basis for either concurring or disagreeing. Mr. Ramsey has had the experience of personal contact with these gentlemen in the course of the handling of this dispute, and I have not. However, in my judgment the report of the Council of Economic Advisers in 1966, and the wage-price guidelines it there set forth, have done a great deal of damage in the labor relations field.

During the period of the airline strike, I knew absolutely nothing about what was going on behind the scenes, but I ventured the prediction in a speech that I made to a labor union convention at that time that the possibilities of settlement of that strike were very much embarrassed by the fact that the Council of Economic Advisers had come forth with guidelines which the unions could not accept, and which management, however, would take refuge in, and that this would promote a great deal of labor controversy reaching beyond the strike that was then in process.

I think my prediction proved correct. I think we have had much more labor difficulties in this country, and we probably haven't seen the last of them yet, which have been generated by ill-advised wage-price guidelines coming from the Council of Economic Advisers.

I would like, if I may, to go a bit further in the appraisal of personalities. I have heard you express interest in that subject in questioning other witnesses, both Mr. Leighty and Mr. Ramsey. Basically, I don't think the problem lies in bad people.

To illustrate my point, let us get away from the personalities involved in this particular dispute and let me go back to the operating organizations rules dispute.

There were three public members of that arbitration board. There was Ralph Seward, Ben Aaron, and Jim Healy. I can't think of three more competent, more honest, more dedicated arbitrators than those three.

Mr. HARVEY. Would you let me ask you right there, would you apply the same statement to the Fahy Panel and to Emergency Board 169?

Mr. SCHOENE. I have no reason not to.

I am not acquainted with all of those people, but I have no reason to apply any different appellation to them.

But as to that particular Board, if I could have made the selection myself I would probably have selected one or more of them, and certainly if I had had a veto power, I wouldn't have used it to disqualify any one of them.

Yet they came forth with what I believed was the greatest goof in the history of railroad labor relations. The point is that the problem doesn't revolve around bad men or incompetent men, or biased men.

The very best people in the country do these things to you when you have compulsory arbitration.

Mr. HARVEY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Pickle, do you wish to question now or a little later?

Mr. PICKLE. I would like to defer at this point, Mr. Chairman.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. Mr. Schoene, as I understand it, on individual claims you use an arbitration method; is that right, if there is disagreement?

Mr. SCHOENE. On grievances?

Mr. ROGERS. Yes.

Mr. SCHOENE. Yes.

We have compulsory arbitration right along on grievances by virtue of a court decision. After the 1934 amendments to the Railway Labor Act, we did not think we had compulsory arbitration of grievances, but after 20 years the Supreme Court said we did and didn't have a right to strike over grievances.

Mr. ROGERS. Over an individual grievance, I guess?

Mr. SCHOENE. An accumulation of grievances.

Mr. ROGERS. It would all be on an individual basis, though, wouldn't it?

Mr. SCHOENE. No. In the 20-year period that we thought we had the right to strike over grievances, if a carrier was too slow about settling grievances, and you had an accumulation of them where they were misapplying the agreements, in our judgment, it was not uncommon to set a strike date over grievances and then you would get results.

But since the Supreme Court decided in the *Chicago River* case that we don't have the right to strike, we have compulsory arbitration with the accumulation of dockets of grievances that are years behind.

Mr. ROGERS. I understood we passed legislation so that you can pull out cases that are behind and have them taken before special boards.

Mr. SCHOENE. That is right. And while that arrangement has not been in effect long enough to have had its full consequences, the indications are that this will be very helpful in the disposition of grievances.

Mr. ROGERS. So that procedure has been used in grievances.

Why is it that a voluntary arbitration cannot be worked out, where labor selects a member or two of an arbitration board and management selects one or two, and the President appoints public members on a voluntary basis?

Why couldn't this be tried? Would there be anything unfair about that?

Mr. SCHOENE. Not if the parties are agreeable to it.

Mr. Macdonald asked me that question.

Mr. ROGERS. I thought you may have gone into that.

Mr. SCHOENE. My answer to him was the same as I have to make to you, that I don't know why the carriers and the organizations have not been able to work that out. I am not counsel for the shopcraft group.

Mr. ROGERS. Do you think this would perhaps be worth trying to pursue?

Mr. SCHOENE. I would be very much surprised if the National Mediation Board and the Secretary of Labor, and all the other people who have participated in the handling of this dispute, have not tried to work that out. I think they probably have.

They have been unsuccessful.

Mr. ROGERS. Perhaps we ought to find out why they don't want to proceed in this way on a voluntary basis, if they are concerned with maintaining free collective bargaining.

Mr. SHOENE. I think this might be a useful subject to pursue, but I am not the proper witness with whom to pursue it.

Mr. ROGERS. Thank you.

Thank you, Mr. Chairman.

Mr. MACDONALD (presiding). Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Schoene, how many unions are affiliated with the Railway Labor Executives' Association?

Mr. SCHOENE. Twenty-three.

Mr. WATSON. Of those 23 unions, 13 have already agreed voluntarily to a new contract?

Mr. SCHOENE. I think that is probably the correct number. When you say a new contract, I think you should understand this. We do not have term contracts in the railroad industry. Contracts are opened from time to time on various subjects, depending upon what notices are served. So when you are talking about contracts in this context, it is only a wage and vacation question that has been settled.

There are other subjects now open, such as stabilization of employment. In the case of five of the nonoperating unions there is still pending a disposition which arose as part of their wage case as to away from home expenses, traveltime and travel allowances, which is in no danger of becoming a crisis because the parties have already agreed that if they are unable to resolve the differences on that, they will arbitrate.

Mr. WATSON. Although you have not been directly involved in negotiations in this dispute, I am sure your capacity as General Counsel to the Labor Executives' Association causes you to be concerned with this matter and you have been following it very closely, haven't you?

Mr. SCHOENE. I am very much concerned, very deeply concerned. I have been devoting substantially all my time to this.

Mr. WATSON. You are aware of the fact, or at least I have been led to believe, that the average increase has been about 5 percent for the 13 unions that have already voluntarily arbitrated or negotiated a new contract, is that not correct?

Mr. SCHOENE. No; I don't think that is correct.

The settlements vary considerably as both Mr. Leighty and Mr. Ramsey have pointed out. Generally, in the case of the operating brotherhoods, it involved a 5 percent wage increase, but it was retroactive to August of 1966, whereas in the case of the shopcrafts the opening date is January 1, 1967, and that makes a considerable difference.

In the case of four organizations there was involved in the settlement not only a 5-percent increase effective January 1, 1967, but a further 2½-percent increase effective January 1, 1968, and a reopener as of July 1, 1968.

These organizations, in addition, have this pending settlement as to away-from-home expenses, traveltime, and allowances.

So I don't think you can characterize any one thing as being characteristic of all the settlements that have been made. Various unions have succeeded in meeting their most urgent needs in wage terms by the settlements that they have made.

Mr. WATSON. I would like to ask two questions and ask you to restrict your answer as much as you can. Now, we have 13 that have settled voluntarily. With six in dispute now, and five that apparently do not have any negotiations, do you consider these unions as holding off or awaiting the determination of this particular dispute?

Mr. SCHOENE. No. To the best of my knowledge there is no delay in the negotiation of other items awaiting this dispute.

Mr. Leighty reminds me that there may be some delay that is related to this dispute by reason of the fact that the railroads have centralized all their negotiating authority in Mr. J. E. Wolfe, and when he is busy with this dispute he can't meet with other organizations that have disputes pending.

Mr. MACDONALD. I am sorry, the time of the gentleman has expired.

Mr. Pickle.

Mr. PICKLE. I have no questions, Mr. Chairman.

Mr. MACDONALD. Mr. Watkins.

Mr. WATKINS. Thank you, Mr. Chairman.

I would certainly like to compliment the learned gentleman, Mr. Schoene.

It has been very interesting to listen to your recital of the present law. I also notice that you have not participated in the bargaining between the unions and management.

I would like to ask you one question, to get your opinion. Don't you feel as though this is a sad day for collective bargaining?

Mr. SCHOENE. Yes.

Mr. WATKINS. It is not only affecting your industry, but possibly it reaches out over this Nation to agreements which, over a long period of time, have certainly been beneficial to labor and to management. Do you know of any way that you could bring these two groups together, the railroads and the unions, to ward off this legislation?

Mr. SCHOENE. No, I don't.

If I had that kind of influence, I would certainly be exercising it. I would like to see the parties settle. Naturally, my sympathy is with the unions. I hope Congress will see fit to allow them to exercise their collective-bargaining rights.

Mr. WATKINS. That is what I am trying to do, to keep Congress out of this.

It is a sad day, to me. I know a little bit about collective bargaining. I have been dealing with unions personally since 1932. I have been dealing with a big union, not a little one. That is the Teamsters Union. The thing I have found with them over a period of years is that they kept talking, they kept men working, and it has worked out. It has been most successful.

Certainly, you are familiar with the terms of the Teamsters contracts over America. Certainly no one could call it anything but success for the management of unions and the management of employers.

We have truckdrivers averaging $10,000 a year.

I don't know, and I don't want to go into the legal aspects of the law—though you certainly are learned in it, and I respect the way you have presented your views to the Members of this Congress——

Mr. SCHOENE. Thank you, sir.

Mr. WATKINS (continuing). But I am beginning to believe there may be too many rules in collective bargaining. I am begining to believe that love for each other is going out the window in some way. That is bad.

Management must understand labor and labor must understand the trials of management. It is beyond reasoning for me to think that this great business in this country, the railroads, and the members of the union cannot get together.

The sickening thing to me is to think that there is no bargaining. We set up additional time at the request of the President of the United States to continue bargaining and to ward off legislation of this type. It would certainly be my hope that the two—and I am afraid the hour is growing late—somewhere along the line will request additional time, which I am sure would be granted.

I hate to see this thing happen. I hate to see this issue thrown before the Congress. I must feel very sadly, and I do feel sadly about it, because if the biggest percentage of this Nation has been able to operate without bringing the bargaining job that they have to do up to Congress to see that it is done, it is just bad.

Mr. SCHOENE. Mr. Watkins, I think I find myself in agreement with all the sentiments you have expressed. I will make this comment: The chairman of our association, Mr. Leighty, seated beside me, has been very active in trying to promote a settlement of this dispute.

So far he has had no more success than the Government officials who have tried the same. But the effort has been made.

Mr. WATKINS. Who is quitting on this deal? Do you charge the railroads with quitting bargaining with labor?

Mr. LEIGHTY. Yes, I definitely say they are. They have decided what they will do, and that is as far as they will go and that is the end of it.

Mr. WATKINS. The railroads?

Mr. LEIGHTY. Absolutely. And let me say one further thing.

More than 2 years ago, at our request, we had a meeting with the presidents of the railroads and the presidents of the organizations, and at that time we suggested that they set up a committee to meet with a committee of our people to try to work out some of these labor problems.

At the time they thought the idea was a great idea and would go along with it. They set up a committee to meet with our committee. A date was set for the meeting. It developed that two of the presidents on their committee couldn't be there, so they asked us to postpone the meeting.

After two further postponements, it just dropped by the wayside. I said to the administration that we have not been able to set up a committee of that kind; now it is up to you to arrange to set up a committee of that kind.

I think when a committee of that kind is set up and gets into operation, many of the problems that now confront us will be taken care of. They won't disappear; we will have to meet them. But we will be able

to work them out and avoid coming before Congress on many of these problems.

We can agree, in my opinion, on at least 80 percent of our problems and reach almost accord on most of the rest of them.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Brown.

Mr. BROWN. Mr. Leighty, I have before me a memorandum which I guess you put on everybody's desk, about the loss of payroll to railroad employees in the event of a strike.

My question is, does this include or not include the unemployment payments which strikers would receive?

Mr. SCHOENE. Are you referring to the document entitled "Strike Loss to Employees"?

Mr. BROWN. Yes, sir.

Mr. LEIGHTY. That is the actual wage loss. It does not take into account any unemployment benefits.

Mr. BROWN. In other words, the loss would be, in terms of what the employee would wind up with in his pocket, something less than $2,694,000 for the striking employees, and something less than $13,368,000 a day for all railroad employees?

Mr. LEIGHTY. That is right.

Mr. BROWN. I wonder if you could make the difference there between the income which would be received in unemployment benefits so that we could get a figure as to what the actual loss would be of the individual worker.

Mr. LEIGHTY. A number of the unemployed individuals would not be entitled to unemployment insurance because of the qualifications which must be present and which they could not meet. I don't know whether it has been brought into these hearings or not, but the railroads hired around 72,000 new employees in 1965, and 1966 a like number, and many of those would not be entitled to unemployment insurance. So they wouldn't benefit.

Assuming that unemployment insurance would not apply to those individuals, the cost per day would be reduced approximately—these are approximate figures; I can't give you the exact figures—by about $5 million a day, or possibly a little more. That is for the entire group.

For the shopcraft group, I would say you could reduce that by about one-third, or a little more than one-third.

Mr. BROWN. You say assuming. Am I to understand that they would or would not be covered by unemployment compensation? It seems to me if they were hired in 1965 and this is 1967, they would be covered.

Mr. LEIGHTY. I am speaking about the number of new employees. There are a number of employees that have been hired this year who couldn't qualify.

Mr. BROWN. How long do they have to wait to qualify?

Mr. LEIGHTY. It depends on their period of employment and their earnings. There are two formulas involved.

Mr. Schoene would be in a better position to answer that question than I am because he participated in drafting the law.

Mr. SCHOENE. During the benefit year, which is now current, that benefit year began July 1, 1966, and is based on 1965 employment. So anyone who was newly employed since 1965 would not currently be eligible for benefits.

Mr. BROWN. Anybody hired since 1965 or July 1, 1966?

Mr. SCHOENE. Since 1965. The base year is the calendar year. The benefit year begins 6 months after the end of the qualifying year.

Mr. BROWN. Then if someone was employed during 1966, wouldn't he become eligible on July 1, 1967?

Mr. SCHOENE. Yes, if he had sufficient earnings to qualify.

Mr. BROWN. This is essentially what we are talking about.

I wonder if you could be kind enough to revise those figures, taking this into account, for a matter of information? You can do it roughly.

Mr. LEIGHTY. We will be glad to.

(The information requested follows:)

STATEMENT FROM THE RAILWAY LABOR EXECUTIVES' ASSOCIATION CONCERNING ESTIMATED WAGE LOSS OF SHOPCRAFT EMPLOYEES IN EVENT OF STRIKE

On the basis of the railroad payroll for the year 1966, we estimate that a strike of the shopcraft employees would result in a wage loss to them, after offset of the unemployment benefits payable, of about $1,800,000 a day, and for all employees, after offset of the unemployment benefits payable, the wage loss would be about $8,900,000 a day. These are rough approximations and not precise figures.

Mr. BROWN. Mr. Schoene, in view of your concern about the deleterious effects on labor relations given by the Council of Economic Advisers, and Mr. Ramsey's feeling that the hand of the Council of Economic Advisers may be seen in the administration view on this pending dispute, do you think that compulsory arbitration saddles labor with disadvantages going in that management doesn't have?

Mr. SCHOENE. Yes, very definitely. Management in the railroad industry made up its mind as early as 1950 that they would be better off under a system of compulsory arbitration, and they have been advocating that ever since.

Mr. BROWN. Why? That is what I want to know. Why would they be better off than labor? It seems to me that the implication is that a compulsory board making a compulsory arbitration must therefore either be biased against labor or, for some other reason, as you had your exchange with Congressman Devine, if they are honorable men but come up with an antilabor conclusion, why would management feel that they would enjoy an advantage any more than labor would in compulsory arbitration?

That is what I am trying to get clear in my mind.

Mr. SCHOENE. Experience shows that is the result. Labor fares badly under compulsory arbitration. Fortunately, we haven't had much experience with it in this country.

Mr. BROWN. Yes.

Mr. SCHOENE. But there is experience with it in other countries.

Mr. BROWN. You are taking experience in another country and suggesting that that would be the experience here?

Mr. SCHOENE. Plus what experience we have had with compulsory arbitration in this country, in this industry particularly, the one time it has been tried, Public Law 88–108. The experience has been horrible. I understand Mr. Gilbert and Mr. Luna, presidents of the Brotherhood of Locomotive Firemen & Enginemen, and the Brotherhood of Railroad Trainmen, will elaborate further on that.

But our experience in the one time it has been tried is horrible. As I said before, the very best people did it to us.

Mr. BROWN. Do you think this relates to the Council of Economic Advisers necessarily?

Mr. SCHOENE. No, not the experience we have had with compulsory arbitration. I do not attribute that to the Council of Economic Advisers. I do not attribute to them any influence in that regard.

Mr. BROWN. Would you suggest that this bad experience with compulsory arbitration would only apply to the railroad industry, or would it apply to all labor-management disputes in other industries as well.

Mr. SCHOENE. I think its application would be broader, the bad experience would be broader, if it were enacted more broadly. But I must say that my experience has been largely in the railroad field.

Mr. BROWN. Let me go into one other field. We have had considerable strong testimony, I would call it strong testimony, by administration spokesmen relative to the adverse influence of a railway labor strike on the economy.

The suggestion is that this is intolerable and, therefore, we must have House Joint Resolution 559 as an alternative to this because we can't tolerate a strike.

It seems to me this is a relative matter, that if a strike affects the economy a great deal, we have to have compulsory arbitration; if it affects the economy not much, we don't have to have compulsory arbitration.

But there is a line someplace, apparently, between the railroad industry and its effects, the effect of a national railroad strike, and, say, the effects that might be felt on the economy of a communications strike in the telephone industry, for instance, or a strike of steelworkers which could adversely, if it were to extend itself, affect many industries, or a strike of autoworkers, or any one of a number of different industries that have a nationwide impact on the economy.

Do you feel that is the tendency of the administration, to be so dedicated to maintaining a full economy that they would prefer compulsory arbitration to the economic damage a strike might do?

Mr. SCHOENE. Yes, I think that is so. As you point out, certainly a strike in any major industry would adversely affect the economy. It is just a question of degree. Apparently the administration has seen fit to recommend to you that compulsory arbitration is preferable because of the adverse effects of a railroad strike.

Mr. BROWN. This lends credence to Mr. Ramsey's point, that the Council of Economic Advisers may have a hand in this decision, because that is part of their job.

One other question has been mentioned two or three times this morning, and I think it has been mentioned again by Mr. Leighty.

Centralized nationwide bargaining by management of the railroads has been suggested as contributing to strikes of this nature, the monolithic decision by the management. What about centralized labor bargaining? Does that have an influence or not?

Mr. SCHOENE. The experience with collective bargaining in the railroad industry has been that in very many areas, particularly on general movements of wages, general welfare conditions, such as health and welfare, vacation, national bargaining is useful, and it has been the choice of both sides in those areas since 1932.

But it has always been on a consent basis. It has only been engaged in when both sides were willing to participate on that basis.

The first example we had of railroad management attempting to enforce national handling by law is in the Brotherhood of Railroad Trainmen dispute now occurring with respect to crew consists.

Mr. BROWN. I am not trying to turn back the clock to the days before there were unions or when there were more unions, because they have concentrated as the roads have concentrated. But do you think there is any possibility here, if the nationwide character of bargaining can be broken up, both with reference to management and labor—in other words, antimonopoly legislation that would be applicable to both—that these disputes could be taken back to a level that would not result in the national public interest becoming involved to the extent that we are considering compulsory arbitration?

Mr. SCHOENE. I think any such approach would be turning the clock back. It would be very inefficient and would, in my judgment, result in a constant turmoil in labor relations.

I do feel very strongly, however, that the carriers' contention that national bargaining is compulsory is a very bad contention, and I hope that the court of appeals in its decision will state that.

Mr. BROWN. Certainly compulsory arbitration would eliminate the turmoil. It would all be very clean, neat, and sterile, one single act.

Mr. SCHOENE. I am not advocating compulsory arbitration. I know you understand that.

The CHAIRMAN. Mr. Kuykendall.

Mr. KUYKENDALL. There has been all this discussion, but let me preface my remarks. Yesterday, Mr. Ramsey spoke directly as representative of the unions. You are on a relatively broader situation or position here, and I would like to address you on that point.

There has been a great deal of discussion about the problem word, this word compulsion, whether it be arbitration, settlement, and a lot of attempts have been made to define the difference between mediation and arbitration.

Is not your main objection to the word compulsion more so than it is to all these others?

Mr. SCHOENE. Yes.

Mr. KUYKENDALL. Mine, too. There is my objection, and I know it is yours.

Mr. SCHOENE. You are quite right.

Mr. KUYKENDALL. I have been on record for a long time as being adamantly opposed to compulsory arbitration. The 1963 act was compulsory arbitration and there were a lot of promises made that that would be the last one.

If we should, by the force of national interest, get trapped into one now against my will, let's truly hope that this will be the last one.

Earlier in the week, Mr. Wolfe offered us the bitter pill called compulsory arbitration or compulsory settlement, whichever you want to call it. In the end, it was compulsory. That is a very bitter pill.

Since that time the unions have offered us another bitter pill called seizure. I think they are equally bitter, and would you not agree that they are both compulsory?

So we come down to something: Both parties have pointed out—and this is the one area you agreed upon—that these horizontal settle-

ments over the last 30 years have caused this gross inequity in the pay of the skilled people to exist. Both of you have agreed to that. Both of you have agreed that the horizontal settlements have been the cause.

Each of you has blamed the other for it, and I think probably both of you are right.

I coined the term early in the procedure that it took two to tango and Mr. Ramsey admitted that it took two to tango.

I asked Mr. Wolfe if he regretted any of this, and he gave me a succession of wars and emergencies that he said caused each case to happen.

I am looking to the long-range future, not necessarily so much at 559, because just as soon as we get through with 559 one way or the other we will be taking up Mr. Pickle's bill or something similar to it.

Here is something that disturbs me greatly, and that is this question: In the first part of your package you went percentage, which, had you done it so many years ago, you would not have the problem we have today, but in the second part of your package, yes, you broke off the skilled, but you immediately went back to the pennies again.

I know there must be a range of skill within the skill range. There certainly are various skills. You come right back and ask for a pennies settlement from the very most skilled man and the most unskilled skilled man, asking for 12½ cents within that range, or whatever it is. Doesn't that compound the same thing?

Mr. SCHOENE. No, I don't think that is true as to this particular group. There is a great deal of standardization of the skilled crafts in the shop crafts.

Mr. KUYKENDALL. What is the difference between your bottom-pay skilled and top-paid skilled? Would you clarify that?

Mr. SCHOENE. There is none.

Mr. KUYKENDALL. In other words, this whole package of people are all making exactly the same amount per hour?

Mr. JOSEPH RAMSEY. The machinists, electrical workers, and sheet metal workers have a single rate of $3.01475. There is another group of the shop craft, carmen, blacksmiths, and boilermakers, that have a lesser rate, $3.01, and they have various grades, A–B, and C–D, which I mentioned yesterday, the carmen.

The electrical workers have some varying rates that cover linemen and other work that do not receive the one standard rate.

Mr. KUYKENDALL. Do you feel, sir, that this whole skill package in your industry should be making the same amount of money?

Mr. SCHOENE. Not in the entire industry. This is true particularly of the shop crafts. They have a standard rate or almost a standard rate for their mechanics.

Mr. KUYKENDALL. And you feel it should continue?

Mr. SCHOENE. That, I think, should be continued. You see, these people serve an apprenticeship.

Mr. KUYKENDALL. I am not talking about that. I am talking about differentials only. I am not talking about what they are worth. I think they are underpaid. I am talking about differentials within the broad skilled area.

Mr. JOSEPH RAMSEY. Not only do they serve an apprenticeship but they are very versatile, sir, and they may be used for this type of work

this hour and another type of the same craftwork another hour. They must be very versatile and able to do all the work.

Therefore, they are paid as journeymen because they are journeymen. They don't stand in one spot and do this over and over and over and over again. They are all working custom work, whether it is on diesel locomotives, whether it is on cars, passenger cars or freight cars. They do not repeat the job over and over again. They are highly skilled and they are versatile.

That is why they are all paid the same rate. I might suggest to you, sir, that that single rate for the various classifications was the result of Government control and the Director General's negotiations with the organizations back during the First World War.

Mr. KUYKENDALL. Let me ask two things here. You have given me a logical and concise answer to my question, but let me suggest that the very same thing of asking for pennies increases instead of percentage will ultimately end up the same 30 years from now.

Lastly, let me ask you this: Yesterday or the day before yesterday, Mr. Ramsey stated an almost blanket opposal to job evaluation, period. I would suggest that in the long pull you work out as labor unions some sort of acceptable job evaluation program that you can accept.

I can't believe there is not a place for this in your industry.

That is all.

Mr. LEIGHTY. Might I make a comment in connection with that statement?

The CHAIRMAN. Mr. Leighty, you may.

Mr. LEIGHTY. Insofar as this 12½ cents, you appreciate you have a different situation. You have a group of mechanics in the railroad industry earning an average of 60 cents an hour lower than what they are getting in outside industry. The purpose of this additional amount of 12½ cents that they are asking for is to wipe out this specific difference, this 60 cents that is the differential. That can be done just as well through cents per hour, or can be done probably better through cents per hour rather than through a percentage arrangement.

Mr. KUYKENDALL. I just happen to think that some of your men are more underpaid than others.

Mr. LEIGHTY. In the other organizations, a standard rate of that kind does not exist. In other organiaztions and on individual railroads, negotiations are constantly taking place to take care of this situation. You have an unusual situation confronting the shopcrafts and it certainly cries out for the proper solution.

What the shopcrafts have suggested, in my opinion, is a very proper solution.

Mr. SCHOENE. Mr. Chairman, might I make one further observation on the matter of uniform cents per hour increases over the past years which the gentlemen referred to?

I think the record should show how that come about. We had some very low rates in this industry. Twenty or twenty-one years ago, at the time I handled the first national case in my practice, that was in 1946. We had a great many people working for 57 cents an hour at that time. Our main thrust for a period of years had to be to get those low-paid employees to a level that was compatible with a decent living standard.

Our efforts over the years have been directed in that way, except when we went on the 40-hour week and there was a percentage adjust-

ment at that time. But any percentage adjustment, that was possible in 1946 on a 57-cent-an-hour rate, would just have been peanuts for those people.

Mr. KUYKENDALL. I understand. You and Mr. Wolfe did agree on this particular explanation.

Mr. BROWN. This created, however, the compression which you are trying to compensate for now.

Mr. SCHOENE. There is no question about that.

Mr. BROWN. And that was the labor policy at that time, was it not?

Mr. SCHOENE. Yes. We had a difficult choice between having people work at disgracefully low rates or build up compression. We chose to get the minimum rates up first, and now we are seeking to eliminate the compression.

The CHAIRMAN. This will conclude the hearings for today.

I want to thank you, Mr. Schoene, and Mr. Leighty, for coming and giving us the benefit of your views again today. I believe you have helped the committee considerably and certainly have answered many questions that have been asked you in a fine manner.

Mr. SCHOENE. Thank you, Mr. Chairman. It has been a pleasure to appear before you.

The CHAIRMAN. This will conclude the hearings for today. Tomorrow morning we will resume at 10 o'clock with Mr. Andy Biemiller, special representative of the AFL–CIO.

(Whereupon, at 11:55 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, May 25, 1967.)

79–205—67——22

RAILROAD LABOR DISPUTE

THURSDAY, MAY 25, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

Mr. FRIEDEL (presiding). The committee will come to order.

We will continue hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Our first witness will be the Honorable Andrew J. Biemiller, director, Department of Legislation, AFL–CIO.

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS; ACCOMPANIED BY THOMAS E. HARRIS, ASSOCIATE GENERAL COUNSEL OF THE AFL–CIO

Mr. BIEMILLER. Mr. Chairman, my name is Andrew J. Biemiller. I am legislative director of the AFL–CIO. Accompanying me is Thomas E. Harris, associate general counsel of the AFL–CIO. We appear here on behalf of that organization.

The position of the AFL–CIO on the legislation proposed by the administration was set forth in a statement issued by President Meany on May 4. That statement is as follows:

> In the final analysis, the legislative proposal contained in the President's message on the rail situation terminates in compulsory arbitration. The AFL–CIO is steadfastly opposed to the denial of the right to strike through the imposition of terms and conditions of employment otherwise unacceptable to the parties. We shall therefore vigorously oppose this as well as any other legislative proposal which calls for compulsory arbitration of the issues in dispute.
>
> The workers involved in this dispute are simply seeking to exercise the rights assured them under present law. If there is a paramount public interest in the continued operation of the railroads, sufficient to override the rights and freedoms of the workers employed by these private corporations, then the railroads should be operated for the public interest and not for private profit. We would therefore regard seizure legislation, pending the negotiation of a settlement, as the fairest and least oppressive alternative.
>
> We are convinced that the only thing now standing in the way of an early negotiated settlement of this dispute is the belief of the railroad lobby that compulsory arbitration legislation will be forthcoming to relieve them of the obligation to bargain in good faith.

This statement of President Meany was unanimously endorsed and adopted by the AFL–CIO Executive Council on May 9, 1967.

The AFL–CIO is opposed to the administration's proposal because it takes away the right to strike and substitutes compulsory arbitration.

Secretary Wirtz has made much of the fact that the bill also provides for mediation and collective bargaining.

That is true. Sections 1 and 2 provide for continued collective bargaining, assisted by mediation by a special board.

However, sections 3 and 4 provide that if a settlement is not reached within 30 days the special board shall hold hearings and make a "determination" with respect to the issues in dispute and sections 5 and 6 provide that if the parties have not reached agreement by the 91st day the "determination" of the special board shall take effect, and shall continue in effect until such time as the board decides, though not beyond January 1, 1969.

During all of that period the unions are forbidden to strike. The board's determination is to "have the same effect * * * as though arrived at by agreement of the parties * * *."

That is compulsory arbitration, and we are opposed to it.

The fact that the resolution provides for mediation and collective bargaining and more hearings before a special board does not disguise or sugar coat the facts that the unions are forbidden to strike and that, if no agreement is reached, the board is to render a legally binding settlement. If that isn't compulsory arbitration we don't know what the words mean.

With compulsion thus hovering on the horizon there is little reason to think that the carriers will engage in any real collective bargaining in the meanwhile; and once the special board makes its determination there will not even be a pretense of bargaining by the carriers.

We are opposed to compulsory arbitration because we don't think that the employees of private enterprises should be compelled by the Government to work on terms to which they have not agreed. We are wholly opposed to that sort of Government coercion of workers while the enterprises are being operated for private profit, as in a normal peacetime economy.

We think that it is fundamental to democracy that no such compulsion be placed on workers by the Government in the interest of management.

It is true that this legislation constitutes just a little bit of compulsory arbitration, in that it applies only to a particular dispute. But we do not find much comfort in that, for two reasons.

In the first place, the medicine of compulsory arbitration may be habit forming.

In the second place, a particular dispute cannot be practicably isolated from the continuing course of collective bargaining relationships between the parties. These particular negotiations grow out of a long series of negotiations over the years, and their outcome will affect negotiations between the parties and the terms and conditions of employment of the workers for years to come.

In 1963, Congress provided for the compulsory arbitration of a particular dispute on a one-shot basis. It hasn't worked, and one-shot compulsory arbitration of contract terms won't work here either.

The arbitration award rendered under the 1963 law has been the subject of innumerable disputes, reinterpretations, and lawsuits, and it will embitter relationships between the parties, and among unions, too, for years to come.

It has also led to renewed embitterment of workers at the Federal courts, which had been dying down in recent decades since enactment of the Norris-La Guardia Act.

During the 2-year period before the arbitration panel went out of existence, the panel was asked for and rendered more than 400 interpretations of its award. The Court of Appeals for the District of Columbia has decided eight or nine cases arising out of the award, and about 23 other separate cases have been argued before it and are awaiting decision.

There have been innumerable district court rulings in addition to the 30 appealed to the court of appeals, and six or eight lawsuits in other jurisdictions, all growing out of what was supposed to be a one-shot arbitration award.

Collective bargaining contracts these days are complicated, and the problems with which they deal are complex and interrelated. A single dispute just cannot practicably be isolated for separate handling, as this bill undertakes and as the 1963 act undertook to do.

Once the camel of compulsory settlement gets its nose into this tent, it will be mighty hard to get it out.

To give but one example, the Emergency Board in this dispute recommended a job evaluation program. Do you gentlemen know anything about job evaluating programs? They take years to work out, with the best wills in the world among the parties, and require continuing adjustment thereafter.

That sort of thing can be made workable, if at all, only by long term, continuing, voluntary negotiation. It can't be handled by Government fiat.

So the AFL–CIO is against either a little or a lot of compulsory arbitration, and we are fearful that a little will grow into a lot.

In time of war or other grave national emergency the workers of this country would, of course, be prepared to accept, if the President and Congress thought it necessary, even the restrictions on personal freedom involved in having the Government fix the terms and conditions on which workers must work.

In those circumstances the AFL–CIO would willingly accept any necessary restrictions, but on one condition. That condition is that equality of sacrifice must prevail.

To us that means that if the Government undertakes to fix the wages, hours and working conditions of employees, it must likewise undertake to fix the prices and limit the profits of private enterprises.

During World War II and the Korean war the Government did have a program for stabilizing both wages and prices, and it had an excess profits tax. It has no price stabilization now, and no excess profits tax; and we are unalterably opposed to singling out workers for special sacrifice.

Railroad profits are not regulated at all and railroad rates only nominally. The Interstate Commerce Commission has power to fix rail rates, but in practice most rates are fixed by the railroads themselves, acting together through rate bureaus, which are granted exemptions from the antitrust laws by the ICC. The effectiveness of rate regulation can be judged by the fact that the net profits of class I railroads rose from $651 million in 1963 to $925 million in 1966.

In any event, the Government does not, for the most part, undertake to justify this legislation on the ground that the Nation is in a tem-

porary emergency. What the Government says, and what the carriers say, is that there must never be a nationwide rail strike again.

It is perfectly apparent from the rationale offered by the Government, and by the carriers too, that every time a labor dispute threatens to result in a nationwide rail strike they will be up here asking for legislation to stop the strike.

The AFL–CIO completely rejects the notion, which seems to underlie the administration's bill, that the unions are wholly at fault, and the railroads not at all, so that any legislation should be onerous to the unions but wholly acceptable to the carriers.

Without going into the merits of the dispute, let me point out something. The unions served the statutory notices proposing wage increases and other contract changes more than a year ago, on May 17, 1966.

During all of that period they have been forbidden to strike, first by the Railway Labor Act and subsequently by two special statutes. The unions have scrupulously observed those prohibitions.

But during all of that time there has, as Mr. Fox and Mr. Leighty told you, and as the Emergency Board noted, been very little bargaining.

Why?

Because the railroads were confident that the Government would never permit a nationwide rail strike.

Some people seem to be under the impression that the unions have imposed on the carriers a pattern of nationwide bargaining, with the consequent threat of a nationwide strike. That is not so.

In the crew size dispute—the dispute dealt with by the 1963 Compulsory Arbitration Act—the Brotherhood of Railroad Trainmen sought, following the expiration of the compulsory arbitration award, to bargain with and, if necessary, strike against individual carriers separately.

However, the carriers insisted that bargaining, and, if it came to that, any strike, must be on a nationwide basis; and they secured a court order to that effect from a District judge in the District of Columbia, Judge Holtzoff.

That decision was rendered in January, and an appeal from it was argued before the court of appeals on May 15.

In our view, and in the view of the Department of Justice too, the decision of the district judge was erroneous. In any event, however, it is quite clear that nationwide bargaining is the choice of the carriers, because they believe that Congress will never permit a nationwide strike.

Mr. FRIEDEL. When you speak of May 15, are you speaking of 1967 or 1966?

Mr. BIEMILLER. 1967. May 15, 1967.

What is there in this history that justifies legislation which bears only upon the unions? We urge that the Congress reject this one-sided proposal, so destructive of collective bargaining, and authorize the Government to seize the railroads.

And we ask for real, not token, seizure. The operating profits should be impounded, and any compensation paid should take into account that but for seizure the railroads would not have been operating.

We are confident that if the carriers were faced with legislation

which would be unpalatable to them too, there would be real bargaining and a quick settlement.

Our final suggestion, if the Congress is not willing to seize the railroads, is that the Department of Transportation establish a system for handling essential shipments during any strike shutdowns. The railroad unions are ready to cooperate to the fullest. The railroads and Secretary Boyd say that it can't be done.

However, it does not appear to us that the Secretary has adequately explored or considered the proposition; and we find persuasive the detailed testimony of Messrs. Leighty and Fox that it would be feasible.

We agree that it couldn't be done profitably, and the employees would suffer too because only some of them would be working and then only part time. That would give both sides, and not just the unions, a real incentive to negotiate, and would make collective bargaining really operative.

We thank the committee for this opportunity to appear.

Mr. FRIEDEL. Thank you, Mr. Biemiller, for your very brief but concise statement.

As I gather from your statement, unless we pass seizure along with the administration's bill—to put it another way, would you be in favor of House Joint Resolution 559 along with seizure? Would you be in favor of the administration's bill with the seizure clause included in the bill?

Mr. BIEMILLER. I take it you are referring to House Joint Resolution 585 which does essentially what you are referring to.

Mr. FRIEDEL. I am referring to House Joint Resolution 559.

Mr. BIEMILLER. Plus seizure?

Mr. FRIEDEL. Plus seizure, yes.

Mr. BIEMILLER. House Joint Resolution 585 is an attempt to do that. We think House Joint Resolution 585 has some deficiencies, but it has the value, at least, in the way it would impound the profits under a seizure. It is a forward step.

We think the seizure provision should be of an executive rather than a receivership nature. We have some other points to make.

As far as the seizure aspect is concerned with regard to the impounding of the profits, and if the bill were shifted from a receivership-type of seizure to executive seizure, we think then the bill should be given very serious consideration by this committee.

It has some other deffciencies, such as the attempt to have a ballot on the final offer of the employers, a procedure that has never been used in the railway labor disputes, and, furthermore, a procedure which, under the 80-day clause of Taft-Hartley, proved to be a mere sham.

It would only be a delaying tactic and of no value whatsoever, in our opinion.

But we think this is at least a model on which the committee could work its way.

Mr. FRIEDEL. Thank you.

Mr. Springer.

Mr. SPRINGER. Mr. Biemiller, I think you have made a very explicit statement. I want to say, as I have to some others, that I think the

shorter the statement, the more concise it is, the more effect it has with this committee. I think your statement has that aspect to it.

I want to see if I can clarify in order what you are either for or against, and see if I can reduce it to the irreducible, so to speak.

First, you are against compulsory arbitration and you say this is compulsory arbitration. That is one thing.

Mr. BIEMILLER. Correct.

Mr. SPRINGER. Second, if the committee sees fit in its wisdom to bring out some legislation, you would favor seizure.

Mr. BIEMILLER. Correct.

Mr. SPRINGER. And you would favor that by some Executive order rather than sit through some court in the line of a receivership.

Mr. BIEMILLER. An Executive order authorized by legislation which would be necessary if for no other reason than the steel decision in recent years.

Mr. SPRINGER. Pursuant to this legislation, yes.

The third alternative is that you would have no legislation but would work out some kind of an agreement with the brotherhoods whereby they could carry the Vietnam materials plus essential items for safety and welfare.

Mr. BIEMILLER. That proposal, as I am sure you know, Congressman Springer, has been made by the unions involved, to the Government. The Government had one session with the unions on this matter, but at that session, on the basis of the information available to me, we are convinced that Secretary Boyd and Under Secretary Vance just airily dismissed the matter for all practical purposes and did not give it the thorough consideration and discussion to which we think it is entitled.

We think it is an honest effort on the part of the unions to continue a situation where collective bargaining could work its way and at the same time meet the arguments of the administration that it needs to maintain certain movements of materials, particularly defense materials.

Mr. SPRINGER. I am convinced that the brotherhoods believe it is feasible. I think their testimony here, at least from two witnesses, was very sincere on this point.

The only evidence we have on that point that we have presently, Mr. Biemiller, is that which Secretary Boyd gave, in which he said he had no experience with it but he took only the word of the Department of Defense. He used the word "chaos."

I have asked the chairman would we please bring over somebody who has had some experience with it so that this could be questioned in detail.

I think we probably could get this on top of the record with someone who has had some experience with it.

Your position, then, to bring this to a head, is: (1) that there certainly should be no compulsory arbitration; (2) that there be seizure under an Executive order pursuant to this legislation; and, (3) that nothing be done and allow the railroads to proceed and the brotherhoods to proceed as if they were striking, except to carry Vietnam materials and that which is essential to safety and welfare.

Mr. BIEMILLER. That is precisely our position.

Mr. SPRINGER. Now I think we have your position. It is most important to know what your position is when you come here.

Is this the position of the AFL–CIO, in that order?

Mr. BIEMILLER. Pardon me?

Mr. SPRINGER. Is this the position of the AFL–CIO?

Mr. BIEMILLER. Yes. We are speaking officially for the organization.

Mr. SPRINGER. I wanted to be sure that we had it all on the record.

There was a point raised at the White House by one who is distinguished and respected, I would guess, in the labor circles. Arthur Goldberg was there, and he took about 10 minutes, I would say, to express his opinion on this legislation.

I believe I am stating this accurately, and I want to be just as fair as I can. I doubt that Mr. Goldberg will be summoned to come here to testify. It would certainly be an imposition with all he is faced with now. I think I can state this correctly for the record, and if I misstate it I am sure the chairman will correct me.

He said when the steel industry was threatened to be seized, or maybe it was seized—I don't remember the details in 1949—the steel unions had to decide whether or not to oppose seizure. They thought about this overnight and went into court and opposed seizure. I realize this is 18 years ago and everything changes in 18 years.

His position, he said, essentially was that they were against seizure for the reason that this froze them, more or less, in their position with reference to bargaining. As best he could make it out as a lawyer, they could not thereafter bargain when the property was in the hands of a third party. Apparently under law you would have no right to bargain further. That was one reason.

He said the second reason he thought was the public interest one, in that after this decision in 1949 the Supreme Court handed down a decision, and this, he said, would be the public interest insofar as Members of the Congress and the committee sitting were concerned, that there was no such thing as nominal seizure. He said the Supreme Court decided this just before he went on the Court.

And if you did seize, you were responsible for all the consequences of seizure, pursuant to what they called responsible seizure.

Therefore, you were liable for profits, you were liable for any damage that was done. You would be liable to return the property in exactly the same condition to the owners as when the Government took it over.

Would you care to comment on either one of those points?

Mr. BIEMILLER. I will refer this to our counsel.

Mr. SPRINGER. It may be a legal point.

Mr. HARRIS. Was it 1949?

Mr. SPRINGER. I believe the year was 1949, as I recall.

This was one where President Truman either seized or threatened to seize. But they were in the courts.

Mr. HARRIS. The seizure was not in 1949. I was with Arthur Goldberg as a lawyer at the CIO in those days. The seizure was in a later dispute, perhap 1952 or 1953. It was while President Truman was still President.

As I recall, the participation of Mr. Goldberg in that case was quite limited. Of course, the records will show, but the Steel Workers Union, I believe, did not argue either for or against the power of the Executive to seize the railroads. They simply argued that the existence of the 80-day remedy under Taft-Hartley was not an exclusive remedy and did not preclude the existence of any other remedy.

What the Court held there, of course, was that in the absence of legislation the Executive does not have power to seize the Nation's railroads.

That is a position that might commend itself to many lawyers.

But I believe, in fact, Mr. Goldberg took no position on that point at the time.

As to whether seizure would inhibit bargaining, that would depend on the terms of the seizure. It would be possible to draw seizure legislation that would state that the existing terms and conditions should continue in effect, and that any bargaining should be between the carriers and the unions.

It would be possible to provide that the person taking over the railroads for the Government could negotiate. This could be done either way.

In past seizures, it has been done in different ways.

During World War I, when the railroads were temporarily nationalized, the people running them for the Government did negotiate terms and conditions of employment with the unions and did change the terms and conditions of employment.

As to the possible liability of the Government to the railroads for just compensation, there has never been a bill which provides, as House Joint Resolution 585 does, that in determining just compensation the courts shall take into account the fact the railroads would have been shut down by a strike but for the seizure.

What effect the courts would give to such a provision there is no way of knowing, because there is no precedent on it.

Mr. SPRINGER. I take it, then, that the way you understand it, Mr. Goldberg did not take any position in the 1952 seizure?

Mr. HARRIS. On whether the President had power to seize?

Mr. SPRINGER. No, that isn't the question. I will narrow the question. I want to be sure we stay with it.

His position was, and I am sure these were his words stated at the White House, because they did not have any further right to bargain, they were frozen in their position and this was the reason, he said, that they went into court and opposed seizure. He used the term "opposed seizure." I am positive he did. I listened very closely.

In fact, my ears pricked up at his words of opposed seizure because I was rather shocked. He said, "We took this position because of the fact we would be frozen in our position."

I will have the record searched to see if Arthur Goldberg did take a position. I think it is important to know.

Mr. HARRIS. Mr. Springer, perhaps I can reach an agreement. If I am right in this controversy, you will agree with our position. If I am erroneous, we will recede and agree with yours.

Mr. SPRINGER. Neither one of us know what the record was of 1952, and I am perfectly willing to accept the record, if you are, too.

Mr. HARRIS. The briefs filed in the Supreme Court would show, I am quite certain, that Arthur Goldberg did not take any such position, that he did not take a position either that the President had power to seize or that he did not have power to seize. He simply took a narrow position that the remedy under Taft-Hartley was not exclusive.

Mr. SPRINGER. May I ask you this question, Mr. Biemiller: Yesterday, Mr. Schoene testified, who I believe is the attorney for the brotherhoods, and testified to many legal matters, doing a fine job. There was

one opinion he gave which intrigued me. I want to see if you agree with it.

He said that he felt that the mediators—I believe he used the term "mediators"—everybody connected with this at the White House were using their influence not to go above 5 percent. He uses these words further, that this year the President is trying to keep from going above 5 percent, or set the limits of 5 percent as he set the limits for 2½ percent last year in the airline strike.

To correct my statement, I believe it was three and a half rather than two and a half.

Mr. Biemiller, you were in the airline thing last year, do you have an opinion on this?

May I say that he also told us that the economic advisers in the White House were influencing the administration and everybody connected with this to not go above 5 percent.

Mr. BIEMILLER. I have not been intimately enough concerned with the details of the bargaining, if you can describe it as such, that has gone on. Hence, I am in no position to answer that particular question.

Mr. SPRINGER. May I ask you one further question?

He said, further, that he felt that those at the White House who were working on the economics of this thing, including the economic advisers to the President, were trying to limit this to 5 percent, not more than 5 percent, for the reason that you are going to have other large groups who are going to negotiate later in the year; namely, the United Auto Workers and; second, the Steel Workers.

Do you have an opinion on that?

Mr. BIEMILLER. The only thing that I can possibly think that that would be based upon is the recent speech by Mr. Ackley in which he sort of sounded a general warning to the Council of Economic Advisers that the concept of guidelines for wages was not dead.

The AFL–CIO has always taken the position that we did not agree with the whole theory of guidelines for wages. If this is an issue in this controversy, we would be opposed to the position that allegedly is, according to the testimony you refer to, being taken by White House economic advisers.

Mr. SPRINGER. I have just one thing further to cover, Mr. Chairman. I am trying to get at the major issues, if I can.

You take the position here that this is not compulsory arbitration?

Mr. BIEMILLER. Pardon me?

Mr. SPRINGER. That this is compulsory arbitration. I beg your pardon.

I am much intrigued, may I say, by the distinguished Senator in the other body. I read from the May 4 issue of the Congressional Record, at S6403, where he uses these words——

Mr. BIEMILLER. It so happens we have that here.

Mr. SPRINGER. All right.

In the final draft of the President's proposal for ad hoc emergency legislation which he called for this morning and is now recommending to Congress for consideration, meeting on the legislative front the threat of a nationwide stoppage of the railroad system, I am pleased to see the President has carefully avoided these two extremes—

And he used this statement:

First, this proposal does not seize the railroads. Second, this proposal does not ignore the negotiations which have already taken place. Third, this proposal is not compulsory arbitration.

You don't agree with that, I take it, Mr. Biemiller?

Mr. BIEMILLER. Mr. Harris and I had quite a colloquy with the distinguished senior Senator from Oregon only yesterday morning before the Senate Labor Committee in which we made it clear that we do not agree with him.

We also pointed out to him that he had made some remarks in 1963 that pretty much contradicted his remarks of 1967.

Mr. SPRINGER. This may be more for Mr. Harris than you, Mr. Biemiller, but I think it is important to get it in the record.

He uses these words on page S6405:

> Further, may I say that in arbitration you do not have mediation. Arbitration is a straight judicial process. When you walk into an arbitration room, you walk into a courtroom, and the case is decided on the basis of the evidence before the court, with the proponent of each issue having the burden of proof on it and the responsibility of sustaining the burden of proof on that issue. But the procedure involved in this resolution is not arbitration in that sense.
>
> This resolution, may I say, provides basically for a procedure calling for extensive collective bargaining and mediation ending up, if necessary, with a ruling of finality on the part of the Government ordering a continuation of the railroads on the basis of a reasonable application and adaptation of what would seem to be a fair and equitable compromise of the positions taken by the parties in collective bargaining and mediation.

Mr. Harris, what do you think about the legalities of that? I will admit the distinguished Senator from Oregon is an authority in the field of labor relations and also mediation-arbitration. I am sure you have had some comparable experience to Senator Morse.

Mr. HARRIS. I certainly am aware of Senator Morse's long career in this field. He was with the War Labor Board in World War II, and has done considerable arbitrating since, and is a distinguished lawyer.

However, I don't believe that most lawyers in this field would agree with him as to his definition of compulsory arbitration. I don't agree with him.

The 1963 act provided that the parties should continue to negotiate. If they didn't reach agreement, it provided for the appointment of a Special Board to hand down a binding decision. It provided that the Special Board was to incorporate in its decision any matters on which it found the parties were in agreement before the legislation was passed.

That proposal was roundly and eloquently denounced by Senator Morse as compulsory arbitration. He was one of the two Senators who voted against it.

The only difference in the present bill is that here the Special Board would be authorized to mediate.

Mr. SPRINGER. Would you point out the lines to which you refer so the committee can follow your thought?

Mr. HARRIS. Section 2. It says, "The Special Board shall attempt by mediation to bring about a resolution of this dispute, and thereby to complete the collective bargaining process."

That was not in the 1963 law. The arbitration board there did not have this authorization to mediate, and did not mediate.

To Senator Morse this seems to be sufficient justification for saying that this is not compulsory arbitration. We disagree with him on that.

If you look at section 5, you will see that it provides that if the parties don't reach agreement, the Board shall hand down a determination, and then it state, "The Board's determination shall have

the same effect, including the preclusion of resort to either strike or lockout, as though arrived at by agreement of the parties under the Railway Labor Act."

Mr. SPRINGER. Mr. Harris, may I at this point interrupt for the program of another question? I am almost through.

I quote Senator Morse again on S6405, as follows:

> What we have done in this resolution is really to follow the procedure that was followed in the War Labor Board many, many times during World War II, in which we gave the parties an opportunity to settle their dispute by way of collective bargaining and mediation.
>
> Then we would say, "If you two sides can't settle this dispute now, we are in the midst of war, we will have to settle it in the public interest."

Then:

> There are differences between the War Labor Board procedures and the procedures set forth in this resolution, but the similarities are greater than differences.

Is that a fair statement?

Mr. HARRIS. Yes, I think so. Senator Morse does not consider that what he was doing in World War II, or what the Wage Stabilization Board did for a while in the Korean war, was compulsory arbitration. I consider that it was. I think most people in the field of labor-management relations would agree with me and not with the Senator.

I think his description is quite accurate. Perhaps this is a mere matter of semantics, as to whether you call it compulsory arbitration or not. Certainly the end step in this resolution and the end step under the War Labor Disputes Act was an imposed settlement.

Most people call that compulsory arbitration. Senator Morse seems to think that if some mediation that goes along with it, or that precedes it, and if the imposed settlement is only a last resort, that that takes it out of the category of compulsory arbitration. We don't agree with him on that.

Mr. SPRINGER. I think I have the distinction. I think it has been refined as I would like to have it so that we understand we are talking about the same thing.

We definitely have you on record as to your position on what this is.

Just this one further question: It is my understanding that Senator Morse either wrote this or had considerable to do in the writing of it.

Do you understand that?

Mr. BIEMILLER. All I can say on that, Congressman, is that I know he was in consultation at the White House while this particular piece of proposed legislation was being developed. I don't know to what extent he participated directly in the matter.

Yesterday, however, he made it quite clear that he regarded himself as spokesman for the administration on this matter. So whether he participated in writing the legislation or not is in one sense quite moot because he is defending it more than any other Member of the Senate.

Mr. SPRINGER. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Moss.

Mr. Moss. Thank you, Mr. Chairman.

I have not had the opportunity to try to follow the dialog or to read the statement of the witness.

I am intrigued by the new term of mediation to finality. I wonder if there is any definition for that.

Mr. BIEMILLER. Our view is it is another way of saying compulsory arbitration. We don't think the phrase has any meaning whatsoever except that.

Mr. MOSS. I am inclined to agree. I tried desperately to find some other meaning and I always end up with compulsory arbitration, or, maybe more precisely, a directed settlement.

Mr. BIEMILLER. By compulsion.

Mr. MOSS. By compulsion, by the force of law. And it is directed quite clearly at the beginning against one party far more than the other.

Mr. BIEMILLER. That is our contention. We agree with you.

Mr. MOSS. We had a little more than an 8-hour day yesterday. As a result, I was somewhat late in arriving for this hearing this morning.

I will forego any further questions at this time, Mr. Chairman.

Mr. FRIEDEL. Mr. Devine.

Mr. DEVINE. I think, Mr. Biemiller, it is useless to deal in semantics on whether it is compulsory arbitration or whether it is mediation to finality. You have made your position clear. I don't think there is much doubt in anyone's mind up here that it is, in fact, some form of compulsory arbitration, no matter what label is put on it.

I will ask you this question, representing the AFL–CIO, and not specifically the shopcrafts or the brotherhoods: Are any efforts at this time being made by any of these people for collective bargaining? Has anyone met since a month ago today?

Mr. BIEMILLER. That is a question you would have to ask the shopcrafts. The AFL–CIO, as such, does not engage in any collective bargaining. Our constituent unions do the bargaining.

Mr. DEVINE. But you are working hand-in-glove with them representing their interests here. I would assume you would know.

Do you know if any efforts are being made by the shop crafts or the brotherhoods to deal with management on this? Have they invited them to a meeting or suggested a meeting? To the contrary, have the railroads suggested further meetings?

Mr. BIEMILLER. I repeat, this is beyond our field. We do not engage in the collective bargaining.

Mr. DEVINE. Do you know if any efforts are being made by either party to the dispute?

Mr. BIEMILLER. I have no evidence whatsoever on the matter.

Mr. DEVINE. I might say this to you, Mr. Biemiller: You, of course, have been quite close to the Secretary of Labor, and probably were aware that this legislation was being drafted. I couldn't presume to suggest to you what this committee will do. I will give you my own personal reading.

I think there are probably at least four, if not more, members who would go the seizure route, and I think there are probably some that might support this bill. I think there are others who will probably support other legislation.

I would also suggest to you that there are quite a number of members, probably on both sides of the aisle, who would just as soon see nothing come out of this committee. That might serve your purposes, too.

The previous witnesses have suggested that if Congress would get out of it, good faith collective bargaining might develop.

In the last part of your statement I notice that if the new Secretary of Transportation would try, he could probably develop a formula

by which the defense interests could be protected during a strike. Maybe some people in the Congress feel, "Let them strike and see what happens."

Mr. BIEMILLER. We feel very strongly that the offer that has been made by the shop crafts to work out an arrangement with the Department of Defense and the Department of Transportation, to keep needed goods running, has been made in very good faith.

We do not think that Secretary Boyd and Under Secretary Vance, at the conference that was held with them, had thoroughly explored this matter. We think they almost cavalierly dismissed it. We think this is a proposal that should be pursued further, and that offers a good solution to the present impasse.

Mr. DEVINE. Let me say this: At the White House, when the President called a number of us down there to discuss the matter, and to ask for the additional 47 days on top of the 20, the purpose, of course, was to consider this legislation and other legislation to resolve the differences.

I would also say that it was presumed that the parties would continue to negotiate and try to bring this to a settlement during that period.

There has been no evidence during 30 days that anyone is making a move. The Congress, I think, is getting weary of having to mediate the disputes between management and union interests.

That is all, Mr. Chairman.

Mr. Moss. Will the gentleman yield?

Mr. DEVINE. I would be happy to.

Mr. Moss. I would like to express my own concern.

I urged very strongly that the Secretary of Transportation and other appropriate officials in the administration explore fully the possibility of some interim arrangement that would definitely balance the security interests of this Nation.

I want to concur most emphatically in your observation that the meeting held showed no evidence of the kind of good-faith effort I had contemplated in urging upon both the Secretary of Transportation and the Secretary of Labor that an effort be made to arrive at an agreement. I was disappointed. I was disgusted.

I think that in view of the fact it was a response to a request from the Congress, it was an action contemptuous of the Congress.

Mr. FRIEDEL. Mr. Satterfield, you are recognized for 5 minutes.

Mr. SATTERFIELD. Thank you, Mr. Chairman. I have no questions at this time.

Mr. FRIEDEL. Mr. Harvey.

Mr. HARVEY. Thank you, Mr. Chairman.

Yesterday, one thing that was pointed out by Mr. Schoene was that in House Joint Resolution 559 the parties would negotiate for 30 days following the determination of a special board.

Yesterday he testified that that was a meaningless requirement. I think he said that industry knew the worst that would happen to it and labor would know the best that could happen to it.

While I knew he did not approve of House Joint Resolution 559 at all, I asked him whether it might be an improvement in that resolution if that 30 days were to be taken and put before the hearing to allow an additional 30 days, so a period of 60 days would exist rather than 30.

I would like your comment on this matter, if I may have it.

Mr. BIEMILLER. Mr. Harris will respond to that.

Mr. HARRIS. I would certainly agree with Mr. Schoene that after the special board has made its determination there is not going to be much bargaining.

The most that could possibly happen would be that the economic package would be rearranged a little bit. There is no conceivable reason that the carriers would agree to any larger package, or the union, for that matter, to any smaller package.

So, basically, I don't see the reason for that 30-day bargaining period after the determination.

Mr. HARVEY. Would it be helpful to have that 30-day period before the determination?

Mr. HARRIS. I think the real difficulty is with the carriers expecting compulsory arbitration, they are not, as long as they have that hope and expectation, going to shift from the positions already taken, or do any further real bargaining.

Mr. HARVEY. Do I take it that you would just as soon see the 30 days eliminated completely and a 60-day resolution? I appreciate you don't want any resolution at all.

Mr. HARRIS. We don't want any resolution at all.

Mr. HARVEY. But considering the merits of the resolution, if this Congress were to pass one, as far as you are concerned a 60-day one would be as good as a 90-day one. Is that accurate or not?

Mr. HARRIS. I certainly think the final 30 days serves no great purpose.

Mr. HARVEY. It serves no useful purpose whatsoever.

Mr. Schoene also pointed out in his testimony that there was no provision providing for continuing disputes after the award had been finally made. He said he thought it would be very helpful, while he did not approve of the resolution, if Congress were even considering the passage of the resolution, it certainly ought to include some provision.

I think I am stating his point accurately. There should be a provision for settlement of continuing disputes, some method of resolving them.

Would you agree with that point?

Mr. HARRIS. I would want to think about that further. The 1963 law did have such a provision and it has not proved workable.

Mr. HARVEY. It has not proven workable?

Mr. HARRIS. No; it has not.

In the prepared statement, we point out that the Panel under that 1963 law was asked for and rendered more than 400 interpretations of its award during the 2-year period that it continued in existence.

At that point, it took the position that it went out of existence and could render no more interpretations.

Within the last few days, that position has been overturned by the court of appeals here, which states that the special Panel should continue to interpret its award, even after the end of the 2-year period.

So apparently that is to be a permanent feature of American labor relations. The members are to continue from now on, on that unfortunate Panel, to render interpretations of the award.

I don't think that is at all a satisfactory resolution.

I think the difficulty is the one pointed out in your statement, that it is almost impossible to pull out one particular negotiation from a long, continuing chain of negotiations which affect not only the unions that are parties to this one, but other unions, and the interrelations between unions and carriers as well, and say that this is going to be decided in a special fashion by a special board.

It is very hard to get into just a little bit of compulsory arbitration or mediation to finality, if you like that better.

Mr. HARVEY. I really have no choice on the words. The administration came up here and used those words.

Mr. HARRIS. For example, going back not to the Panel but to the Emergency Board, it recommended a job evaluation program. As I understand it, neither the unions involved nor the carriers think that is practicable.

But if it were, it wouldn't be something that could possibly be put into effect or supervised, or imposed, by a Government board or panel. That kind of program takes years to work out and requires continuing adjustments thereafter. It just doesn't lend itself to this sort of process.

Mr. HARVEY. I asked the question because I agree to a considerable extent with what Mr. Devine said earlier, that it is hard to tell at this point what Congress should do, whether they should adopt 559.

In my mind is also the question of should it include some provision for resolving continuing disputes. Do I gather you feel it should or should not? Which would you say? You have made it clear that you don't like the resolution. We are aware of that.

You have made clear the problem of pulling out one individual dispute and trying to settle that. But, nevertheless, the committee will be faced with the necessity of making a decision.

Mr. HARRIS. Even assuming this resolution would be adopted, I think I would prefer to see future disputes as to the interpretation or application of the award resolved under the normal procedures of the Railway Labor Act rather than any special provision that the Board hand down interpretations which are then reviewable in the courts.

I think that has worked very badly under the 1963 act.

Mr. HARVEY. Thank you.

Thank you very much, Mr. Chairman.

Mr. Moss (presiding). Mr. Springer.

Mr. SPRINGER. This probably should be directed at Mr. Harris. I think when the committee takes up this resolution for consideration, this point will be very important.

Would you turn to page 4, section 4? Go to line 10, after the comma, "and shall incorporate the proposal of the special mediation panel with such modifications, if any, that the Board finds to be necessary, (1), to be in the public interest; (2), to achieve a fair and equitable extension of collective bargaining; (3), to protect the collective bargaining process; (4), fulfill the purposes of the Railway Labor Act."

I have never seen that in legislation pending here, although we have had it several times. Can you give me an idea of what you think would be included in those four provisions?

Mr. HARRIS. I am afraid, Congressman, that I can't. They seem to me too lacking in concrete content to have any clearly foreseeable significance.

There was a provision somewhat like this in the 1963 statute. It provided, "The arbitration board shall incorporate in such decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement."

In its attack in the courts on the 1963 award, the unions said that the arbitration board had violated the provision of the statute about incorporating in its decision matters o which the parties were in agreement prior to the legislation.

However, the court said that these were just words and not a legally binding standard and dismissed the unions' contention. I find these four standards to be similar.

It seems to me that they are just window dressing, just words. They don't really mean anything.

Mr. SPRINGER. Now, if we go to section 3 on page 3, I will not read that because I am sure you are acquainted with it, but is it your understanding that this would bind them to the Special Mediation Panel, its report to the President of April 22, 1967, in the same language that you just read from the 1963 act?

Mr. HARRIS. It seems to me comparable to the 1963 act in that respect. Let us suppose, as we hope would not be the case, that the Special Board under this came down with a determination which someone contended did not incorporate the proposal of the Special Mediation Panel.

I don't think anyone can get relief in court on such a claim, because the Board can make such modifications as it finds to be necessary in the public interest. That surely is wide open.

The second standard is to achieve a fair and equitable extension of the collective bargaining in this case. We, of course, think that compulsory arbitration is the very negation of collective bargaining. So we are quite at a loss as to how a determination, which is to be legally binding, is going to achieve an extension of collective bargaining.

To us, this is just some more of this business of saying that this is mediation to finality. It is just an attempt to put some clothes on this body to make it look a little prettier.

Mr. SPRINGER. Now may I ask you, pursuant to section 5 on page 4, this question: I don't remember any provision such as this in any legislation before where, in effect, the Board renders a determination and then you mediate for another 30 days.

Do you ever remember any suggested legislation such as that?

Mr. HARRIS. No, I don't.

Mr. SPRINGER. I have been trying to understand what Senator Morse is talking about. He uses the language, as I understand it, beginning at this point at the end of 60 days when a determination has been rendered, that you continue to mediate during those 30 days.

Do you understand that is what he means also?

Mr. HARRIS. Yes, Congressman, I do.

Mr. SPRINGER. I think this is a practical question, but I want to ask it: Based on your experience in this field, do you think it likely that there would be any mediation for that last 30-day period?

Mr. HARRIS. I can't see that there could be any very significant mediation or any very significant bargaining either. It might be, say, that a penny could be taken off the straight wage increase and put into some kind of inequity program, something like that. But once the determination has been made, it seems to me that the economic package is fixed, that nobody is going to agree to anything that is going to either raise or lower the value of the package.

Mr. SPRINGER. In other words, you think they would pretty well be frozen in their position at the end of 60 days?

Mr. HARRIS. Yes, exactly.

Mr. SPRINGER. This is the thing I didn't know about. I am trying to get some opinions on it. I have been wondering, in view of the fact that a suggestion such as this had never been made before, if there would be any chance to move from a frozen position.

I would take it then it would be your opinion, Mr. Harris, that anyone who got a favorable decision would probably hold onto it without any thought further of negotiation.

Mr. HARRIS. Yes. Either party, whichever one it was.

Mr. SPRINGER. Thank you, Mr. Harris.

Mr. Biemiller, I want to direct this question to you because you are the representative of the largest labor group in this country: You will recall, and I think one member of this committee has introduced such legislation, though I don't know of anyone else who has, in January 1966—though it might have been 1965—the President included a paragraph in his message to the Congress. You are probably familiar with it without my describing it.

But in that paragraph he suggested the possibility of recommending legislation which, I take it, would be compulsory arbitration in the general field of those businesses, industries, whatever you want to call them, which, I understood him to mean, affected the public interest. I take it to deal with health and so on.

Do you recall that particular provision?

Mr. BIEMILLER. There was a sentence in the President's 1965 message, very broad in nature—I do not recall the exact wording—the gist of which was that he would consider sending legislation to the Congress to deal with emergency disputes. I think that was the phrase that was used.

Mr. SPRINGER. In order that this committee might have the benefit of your view—and I might say this as a preliminary, but if I misstate it I hope the chairman corrects me—one member of this delegation asked him at the White House conference with reference to this legislation, if he had any further thinking on sending such legislation down.

I believe the President's reply was in this general way, that he hadn't sent anything down because he could not get what I would assume to be a consensus sufficient to get the legislation passed.

I believe that is the sort of language that he used.

I would like to have your comment in this field because I think this committee ought to have the benefit of where labor would stand should such legislation be proposed.

Mr. BIEMILLER. My understanding of the situation is, first of all, the President has had innumerable people working on the problem but none of them have come up with any answer that he regards as a satisfactory one.

I would say from the standpoint of the labor movement, while we have had all kinds of ideas presented to us, and we have done some thinking of our own, naturally, we have not seen any proposal yet that we considered better than those now in existence.

Mr. SPRINGER. In other words, the free collective bargaining process is to prevail.

Mr. BIEMILLER. Precisely.

May I say further on that point that is to us really the essence of the argument against the pending resolution, House Joint Resolution 559. What you are doing in that resolution, in effect, is taking from a group of American workers the right to strike which is the fundamental right, the fundamental weapon that labor has in any collective-bargaining situation. Deprived of the right to strike, obviously the unions' position as an adversary against employers in collective-bargaining procedures is terribly weakened.

All you are going to do, if you pass House Joint Resolution 559, is deprive a certain group of American workers of the same right that every other worker in private industry in the United States has today. We regard this as discrimination.

We have said in our resolution and in our statement that if the argument is made that there is an overriding public interest, there are two ways you can deal with it: You can handle it on the basis of the proposal that the unions have made themselves, that while they want the right to strike they will guarantee that they can work out with the Government a way of handling emergency freight and other matters on the rails; or, second, if the Congress in its wisdom says there is such an overwhelming public interest, that the only fair thing to do is to stop private profit during the period of seizure and see to it that the rails run, that there is incentive given to management as well as to labor to reach a true solution through collective bargaining.

I might add that some of you will recall that 4 years ago President Meany made the point that if there is going to be a continuing argument here about the public interest, then it is high time to stop private profit entirely in this industry and consider the nationalization of the industry.

Mr. SPRINGER. You mentioned that you and your group had done some thinking in this field.

Do you have any plan to suggest in this field other, we will say, than public ownership?

Mr. BIEMILLER. We have said that is only if the Congress decides that the public interest is overwhelming in this area. We have given you what we think the two things are. We think first of all that the Railway Labor Act does offer the needed machinery for solving disputes. Hundreds and hundreds of disputes have been solved under the Railway Labor Act.

We think in the present situation a good case has been made by the shopcrafts that they have not had bargaining in good faith on the part of the management.

The best way I can say that is to repeat a statement President Meany made in his press conference on the 9th of May. He said, "I am glad I don't have to bargain with Mr. Wolfe."

I think this expresses our attitude on that matter pretty clearly. We say either get the Defense and Transportation Departments to do

what Congressman Moss, we, and many others have suggested—they have suggested it themselves—namely, find a way that you can have a strike and still carry on the needed transportation of goods, or let the Government seize the rails and let management and labor settle this dispute while seizure is on.

The only point I was making about the question of nationalization was I am simply saying that if we are going to have a constant repetition of saying that there is an overwhelming public interest, if this is going to come up time after time after time, we say this is probably the cry that will be raised throughout the country, because we don't think that the Government wants to force people to work for the private profit of others.

Mr. SPRINGER. That is all, Mr. Chairman. Thank you.

The CHAIRMAN. Mr. Friedel.

Mr. FRIEDEL. Mr. Biemiller, in your statement on page 6, you say, "Authorize the Government to seize the railroads, and we ask for real, not token, seizure"

I gather that is your recommendation for seizure. That you are in favor of, is that correct?

Mr. BIEMILLER. As an alternative. We would still prefer to have the right to strike maintained.

Mr. FRIEDEL. I understand in 1952—I may be wrong—not speaking of the steel strike but referring to the railway strike—there was a bill before the Judiciary Committee giving the President authority to run the railroads.

At that hearing, I understand the union bitterly opposed the bill.

Are you familiar with that?

Mr. HARRIS. Mr. Friedel, I am not familiar with that.

Mr. FRIEDEL. That is my understanding, that they opposed it. They said it would affect them, that it would put pressure on the employees.

Mr. HARRIS. I am just not familiar with that history.

Mr. FRIEDEL. That is all, Mr. Chairman.

The CHAIRMAN. Are there any further questions?

Mr. Satterfield, have you any questions?

Mr. SATTERFIELD. No, Mr. Chairman.

The CHAIRMAN. Mr. Pickle, have you any questions?

Mr. PICKLE. Thank you, Mr. Chairman.

I would like to ask the witness if he thinks we should take any action with respect to the legislation before the committee.

Mr. BIEMILLER. As I have said before, we think that the Defense Department and the Transportation Department should endeavor to work out the proposal made by the shopcraft unions to permit a strike would at the same time permit transportation of all needed goods.

Secondly, if that does not work, and if the committee has to report legislation, then we are for seizure legislation.

Mr. PICKLE. I take it that you would be for no legislation, but if you had to have legislation you choose seizure rather than this resolution.

Mr. BIEMILLER. That is correct.

Mr. PICKLE. That is all, Mr. Chairman.

The CHAIRMAN. I want to thank you, Mr. Biemiller, and you, Mr. Harris, for coming and giving us the benefit of your views.

I would like to make one comment. In talking of the numbers of cases that are settled each year under the Railway Labor Act, Mr.

Wirtz, in his testimony, started out with several thousand. Then Mr. Moss reminded him that these were quantitative, not qualitative cases.

Then he comes down and says, "I would consider, probably, 100 to 500 important cases a year, bellwether cases, which includes at least the possibility of broadspread crisis conditions of one kind or another being settled."

When we have one that is not settled, of course, it gets the spotlight, such as this one. It doesn't mean, however, that this legislation hasn't worked in the past.

Mr. BIEMILLER. I concur. As you will recall, I made a similar statement myself a few moments ago. We think the normal processes of the Railway Labor Act have justified that act many times and hundreds of disputes are settled under it.

The CHAIRMAN. There is no need to throw it out.

Mr. BIEMILLER. Indeed not.

The CHAIRMAN. I believe with reasonable men, reasoning together they can sit down and settle this strike.

Mr. BIEMILLER. We quite agree, Mr. Chairman.

The CHAIRMAN. I don't think they can settle it by long distance, being in different towns and cities, but only if they sit down together.

Mr. BIEMILLER. That is right.

The CHAIRMAN. The belief of this committee is that collective bargaining hasn't really been conducted in good faith for some time. Until they do sit down and get to bargaining together, I don't know what this committee can do. It would be just a one-shot proposition.

I think it will come that they will have to get together and bargain and show us that they are bargaining in good faith.

Mr. BIEMILLER. We still like very much the outline of a solution proposed in your speech about a month ago, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Broyhill, have you any questions?

Mr. BROYHILL. I have no questions, Mr. Chairman. I would like to welcome Mr. Biemiller before the committee.

The CHAIRMAN. I might say this will conclude our hearing today. I can't say exactly when we will resume because the Congress will go out until next Wednesday, I understand. Depending upon what the legislation is for next week, and I will have to find out, we may not have our next hearing until June 5. I know there are two groups of Congressmen out over the country on commissions.

If we can come back and hold hearings next Wednesday when the Congress returns, we will. If not, we will resume on June 5.

I am hopeful that the principals in this dispute will get together before that time and settle. I am sure, as I said of the airline strike, neither one of them is going to come out of this without getting hurt. I feel that is the opinion of this committee. I might be reading that opinion wrong, however.

I think if they have good commonsense they will realize this and get together and settle this before we have to come up with something.

I believe your proposition was seizure and not compulsory arbitration, but the fact that they cannot strike, with seizure under a Presidential order.

Mr. BIEMILLER. That is correct.

The CHAIRMAN. Mr. Van Deerlin?

Mr. VAN DEERLIN. No, Mr. Chairman. I just wanted the record to show that I did arrive in time to hear Mr. Biemiller at least in part.

The CHAIRMAN. The committee will adjourn subject to the call of the Chair.

(Whereupon, at 11:25 a.m., the committee adjourned, subject to the call of the Chair.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 31, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

Mr. MACDONALD (presiding). The hearing will come to order. This is a continuation of the hearing on H.J. Res. 559, filed by the chairman of the committee, Mr. Staggers of West Virginia, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

The first witness to be heard this morning is Mr. H. E. Gilbert, international president of the Brotherhood of Locomotive Firemen and Enginemen.

STATEMENT OF H. E. GILBERT, PRESIDENT, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN; ACCOMPANIED BY DONALD BENNETT, COUNSEL

Mr. GILBERT. My name is H. E. Gilbert, I am president of the Brotherhood of Locomotive Firemen and Enginemen, an organization which represents virtually all locomotive helpers (firemen) and hostlers employed on railroads in the United States and a significant number of locomotive engineers.

Since 1947, I have served as a national officer of the Brotherhood of Locomotive Firemen and Enginemen, first as a vice president, and, since 1953, as international president. I occupy that office today.

For the past 20 years I have been directly and actively involved in national railway labor negotiations, particularly those affecting my organization.

In this period I have developed a thorough working knowledge of the provisions of the Railway Labor Act, as well as the procedures of the National Mediation Board. Thus, I feel qualified today to come before this distinguished committee and discuss the current state of labor relations in the railroad industry.

The Brotherhood of Locomotive Firemen and Enginemen was one of the five operating unions subjected to compulsory arbitration by the Congress in 1963. I was one of the seven men appointed to the arbitration board created under the 1963 law—Public Law 88–108.

I, therefore, have had firsthand knowledge of the serious problems associated with compulsory arbitration and its most recent application in the railway industry.

At this point, I want to express my appreciation to the committee for permitting me to appear. I hope my presentation will be helpful to you in solving the difficult problem before you.

I now address myself to the provisions of the joint resolution stemming from the President's message to Congress, dated May 4, 1967. Speaking both as an individual and as the chief executive of the Brotherhood of Locomotive Firemen and Enginemen, I am opposed to House Joint Resolution 559 for these reasons:

1. The settlement process contained in the resolution is compulsory arbitration, although thinly disguised.
2. The legislative solution takes from employees their right to strike but does not impose any meaningful counterrestraint on the carriers involved.
3. It is another step toward the introduction of forced arbitration in the Railway Labor Act—long a goal of railroad management.
4. There is nothing in the resolution that prevents the railroads from continuing the forced settlement beyond the expiration date.
5. While the specific language is missing in the resolution, the pattern is clear—Congress is prohibiting national strikes over wages in the railroad industry.
6. From bitter, personal experience, railway managements do not have the humanity, compassion, or ability to be fair in a situation where employees are compelled to work for them by the Government.
7. Also, from personal experience, compulsory arbitration does not solve the problem; it only postpones it, and escalates the original dispute to a point that almost defies solution.

II. BRIEF HISTORY OF 1963 MANNING DISPUTE, PUBLIC LAW 88–108 AND ARBITRATION BOARD 282

I want to make it clear at the outset that my purpose before you is not to argue the case for employment of diesel locomotive helpers (firemen). We have been pursuing that dispute before the courts, and hopefully soon in collective bargaining, if we can ever get the railroads back to the bargaining table.

My discussion of the fireman's case and the treatment of this craft of employees under the 1963 arbitration law and award is to illustrate for you—as graphically and realistically as possible—the pitfalls of compulsion in labor relations.

I will try to keep my remarks as relevant as possible, but it will be necessary at times to deal specifically with the 1963 dispute, so that you can understand the inherent danger of placing the legislative force of Congress behind a still undetermined solution and subsequent rulings by an arbitration panel and the courts.

Here is a brief chronicle of events concerning the railroad manning dispute.

In November 1959, almost a decade after the National Diesel Agreement was signed, the railroads served notice pursuant to section 6 of the Railway Labor Act to eliminate the requirement that firemen be employed in freight or yard service, and to establish a rule which in

general would leave the employment of firemen completely to managerial discretion, in lieu of any collectively bargained agreement.

In September 1960, various railroad unions, including the B.L.F. & E., served notices under section 6 of the act which dealt with the subject of composition of the train and yard crews in yard and all classes of engine service.

After a succession of steps, including a special Presidential Study Commission, the National Mediation Board, litigation, an emergency board under the Railway Labor Act and the participation of the Secretary of Labor, the disputes remained unresolved.

The railroads announced that they would impose their rules changes unilaterally, effective July 1963, causing the unions to respond that a nationwide strike would be the result of any such action by the railroads.

At this point, on July 22, 1963, President Kennedy sent a special message to Congress, proposing legislation to deal with the dispute on a temporary 2-year basis.

As originally proposed by the President, the legislation assigned to the Interstate Commerce Commission the task of establishing the conditions which would be in force for the interim 2-year period. There being objection to the Interstate Commerce Commission, Congress provided instead for a special Arbitration Board, when it enacted the public law, which was signed by President Kennedy on August 28, 1963.

Arbitration Board 282 issued its award on November 25, 1963. With respect to firemen, the award provided in effect that the railroads could designate, up to a ceiling of 90 percent, certain positions from which firemen could be severed and which were not required to be filled upon being vacated; and that firemen who had less than 2 years of seniority could be severed upon payment of specified severance pay, those with more than 2 years but less than 10 years' service could be offered the option of a comparable job with a minimum of 5 years guarantee of employment therein or severance pay, and that firemen with more than 10 years of seniority could not be severed.

The award provided that it would remain in effect for a period of 2 years, unless the parties agreed on an extension and that all agreements previously applicable to firemen would, except as modified in the award, continue to be in effect. Pursuant to agreement of the parties, the expiration date of the award was fixed at 12:01 a.m., March 31, 1966.

The Chairman of the Arbitration Board, Ralph Seward, said that the Board believed that the number of firemen who would be severed under the award would be 5,000 or 6,000.

At hearings before the Senate Committee on Commerce on "The Administration of Public Law 88–108" during the 89th Congress in 1965, Assistant Secretary of Labor James I. Reynolds, referred to 5,500 jobs in testifying, "I believe that the number of firemen jobs which have been blanked and the number of firemen who have been removed since the period of the arbitration award has been far in excess of anything which we had reason to believe would be the case during the negotiations."

In fact, the railroads severed some 20,000 firemen during the time of the award, approximately half the total number of firemen positions

which had prevously existed; and three times the anticipated number of 6,000.

While the railroads paid separation allowances in the approximate amount of $86 million during the award, they saved $179 million through the removal of firemen up to December 1, 1965. And, as you shall see, these savings have multiplied while the fireman issue remains under the effect of the award, 1 year after its specific date of expiration.

III. LIFE UNDER THE PROVISIONS OF ARBITRATION BOARD AWARD NO. 282

A. The clear intent of Congress was ignored leading to unusually harsh recommendations and continuation of award beyond expiration date

Great similarities exist between the situation that confronted the Congress in 1963 and that of today. True, in 1963, the question was one of rules and today it is one of wages and skill differentials.

However, the Congress was not and is not involved in the merits of either case. Congress was pressed, as it is being pressed today, to legislate a settlement by imposing a third-party solution.

Secretary of Labor Wirtz told this committee, May 9, that the 1963 law, "turned out to be compulsory arbitration."

The Secretary, along with other administration spokesmen, testified nearly 4 years ago that the proposed solution to the manning dispute was not compulsory arbitration.

The Secretary's candid admission illustrates the important point that, in 1963, Congress thought it was doing one thing but caused something worse when its intent was ignored.

Congress believed it was approving legislation to create a special arbitration panel which would recommend a settlement to be binding for no more than 2 years and preserving the solutions already reached through the bargaining process.

Thus it was billed not as compulsory arbitration, but as a continuation of the bargaining process which the parties had already started themselves.

Further, Congress thought it was instructing the Board to protect the interests of the employees, meaning at the very least full attrition. And Congress itself set a time limit of 2 years for the award, during which time the parties were to negotiate on an agreement.

What Congress intended, in every instance, did not happen.

Contrary and opposed to the will of Congress, Arbitration Board No. 282, established under Public Law 88–108, devised its own original solution for the firemen's dispute, which was not the solution developed by the parties in collective bargaining, nor in any way related to them.

As he was required to do by section 3 of the public law, the Secretary of Labor furnished to the Arbitration Board a memorandum and other papers setting forth in detail the solutions or agreements reached by the parties in collective bargaining antedating enactment of the law, and further setting forth in detail the extent of disagreement between the parties.

It necessitates only a cursory comparison of the agreements and solutions reported by the Secretary of Labor with the award and subsequent treatment of locomotive firemen—helpers—by the Nation's

railroads to convince any objective individual that the command of Congress that the "solutions reached through collective bargaining" be adopted as the basis for the Board's award was not obeyed in the award nor in the practice of the railroads following rendition of the award.

It is apparent from the public law that Congress intended, furthermore, to maintain "safe transportation service" and to protect "the interests of * * * employees affected."

Actual resolution of the dispute by the Board and the activities of the railroads indulged in under the guise of authority granted by the arbitration award have resulted in:

(1) A vast and critical reduction in safety of transportation service, as evidenced by the reports of the Interstate Commerce Commission, now the Department of Transportation.

(2) Chaos in the administration of collective bargaining agreements made under the Railway Labor Act.

(3) The discharge of many thousands of railroad employees with long years of service in the industry whose tenure of employment and working conditions Congress had been assured would be preserved under the conditions of the arbitration.

(4) The uprooting of hundreds of locomotive firemen (helpers) from their homes.

(5) Radical reduction in the pay of thousands of locomotive firemen contrary to provisions of their labor contracts, with consequent detrimental economic impact on the communities in which they live.

(6) The denial of seniority rights and job rights to veteran employees.

The record will show that Arbitration Board No. 282 was disobedient to the commands of Congress. The award rendered by it imposed a solution of the dispute completely opposed to the standards created by the public law for guidance of the Board.

It did what Congress wanted to avoid—the rendition of a decision independently of "solutions reached through collective bargaining."

I do not believe that I could overstate the adverse impact on the firemen and the public of what has been done. If the Board had obeyed the congressional command we would not, for example, be witnesses today to the destruction of 55 percent of the firemen's craft in the period of 3 years.

I could spend the rest of the day giving you examples of the unjust treatment given loyal railroad employees who were made victim to the inequities of compulsory arbitration.

I know that you will understand that my failure to do so is not based on lack of information or facts, but my wish to stay with the main issues facing you in 1967.

B. Carrier practice of arbitrary application of award forced every dispute before reconvened board, district court or both

When the 1963 law was being argued before congressional committees, the spokesman for the railroad industry told Congress that the 2-year period of compulsion would be devoted to negotiation, collective bargaining, and so forth.

Allow me to quote Mr. J. E. Wolfe. He stated that the administration's bill "imposes a duty on the parties to attempt to settle their dif-

ferences," and would "protect the public interest as a result of the establishment of these interim rules for a period of 2 years or less while the parties undertake, through collective bargaining, to bring about a more permanent solution of the problems."

The record will show that the railroad industry spent the 2-year period—not bargaining with their employees—but harassing and baiting them as never before. They avoided bargaining in any form.

Once the award was rendered and the carriers had secured an air-tight in injunction against any protest, including that of an individual, every minor railroad official in the Nation used his own interpretation of the award in plaguing the ranks of firemen.

I wish that time permitted me to tell you how a huge, impersonal industry zeroed in on unfortunate employees and wiped them out with glee. Those who remained probably had it even rougher. They were not certain one day to the next whether they would work, where they would work, or for how long they would be able to support their families. Many men left the industry in disgust, which was one of the goals of the carriers' harassment tactics. Remember, all this came from a well-meaning Congress trying to avoid the threat of a railroad strike.

Abuses and arbitrary interpretation of the award were widespread and vicious. Only two avenues of relief were open to us: (1) Asking the Board to reconvene and interpret its award, and (2) asking the district court to put a clamp on the railroads' mistreatment of the men.

I recall that at the news conference which introduced the arbitration award to the press, one reporter told Chairman Seward that the award seemed to be an administrative monster. Mr. Seward said it was not, but within a few weeks it indeed had become both an administrative and legal monster.

Arbitration Board 282 had to reconvene 14 times in the 2-year period to answer 454 questions brought before it by the parties. Most were questions posed by the organizations to correct abuses and inequities stemming from the arbitrary acts of railroad officials. I am happy to say that the B.L.F. & E. were upheld in 80 percent of our questions.

By the time we were able to gain relief in the long, involved process of proposing questions to the Board, arguing the merits at reconvened sessions, and then applying them back on the railroads, many men had given up in disgust. To them, justice was not only slow but generally absent.

I have with me a compilation of the questions and answers of Arbitration Board 282. As you can see, it is a large document. I will not involve you with the details, but I would like to give the committee 10 copies—I am unable to supply more at this time—so that you have an idea of what happens when Congress passes an arbitration law and a Board renders a decision.

In the legal arena the story is much the same.

In preparing for my appearance here, I had my staff check our legal expenses stemming from the enactment of Public Law 88–108 and award 282. First, let me tell you that my organization has approximately 36,000 men paying full assessments in the United States. That number is down 12,000 from 1963, because of the award.

You can see we are not the largest union in the Nation. However, our legal expenses may be in that category.

Since September 1963, the month after the public law was enacted we have had to spend $650,000 on legal battles involving problems arising from the public law or the award.

That is a huge, and worrisome and unfair burden imposed on a small organization. It is the same burden you are now considering imposing on the various shopcraft unions.

Here I would like to cite one example for you of a dispute that took us back and forth between the reconvened board and the district court and is still not settled.

The only method by which the employees could enforce the terms of the arbitration award was through the long, formal legal proceedings in the district court.

The brotherhood first attempted to enforce the terms of the arbitration award on February 11, 1965, in the district court by filing a motion for supplemental relief against the Southern Pacific Co. This motion involved nine different kinds of action of the Texas & Louisiana lines of the Southern Pacific Co. and other carriers, which deprived firemen of earnings and jobs in violation of the terms of the award. Some 900 employees' claims were involved.

Certain claims were finally settled after the filing, but on April 5, 1965, the district court declined to rule on the remaining claims until the arbitration board clarified the meaning and application of its award. It was thus necessary to return to the arbitration board to have its award clarified.

The arbitration board made additional rulings on May 6, 1965, pertaining to these claims. It was then back to court to amend our motion for supplemental relief.

At this point the proceedings involved mainly the claims of firemen with less than 10 years' seniority who had been improperly offered comparable jobs.

The district court on June 7, 1965, heard arguments on the matter and requested further interpretations of the award from the arbitration board.

Following further rulings by the board the district court issued its opinion on September 13, 1965, upholding the position of the brotherhood. However, this was not the end of the proceedings.

The carriers refused to make appropriate amends to some of the employees involved, contending that they failed to pursue certain grievance procedures established by collective bargaining agreements.

Notwithstanding the fact that this issue had been decided by the district court on June 7, 1965, it was necessary for the brotherhood to return again to the district court on December 1, 1965, with another motion for supplemental relief.

The court decided the matter on March 28, 1966, and issued its order on April 6, 1966. The carriers requested the court to amend this order on April 18, 1966, and the court denied this request on June 2, 1966. Thereupon, the carriers filed notice June 28, 1966, that this matter was being taken to the U.S. Appeals Court for the District of Columbia.

This appeal is now pending. Thus, the claims of individual firemen growing out of the carriers misapplicaton of the award, which arose a few months after the award went into effect in 1964, have still not been settled.

C. Abuses prompted legislative oversight hearing by Senate Committee on Commerce which then urged collective bargaining

Because of the maladministration of the arbitration board, the onerous burdens and unsafe operating conditions which resulted from the compusory arbitration of Public Law 88–108, and the failure of collective bargaining efforts for a permanent solution to the basic labor dispute, the Senate Committee on Commerce was requested to investigate the matter. The record of that investigation totals more than 1,000 printed pages.

On October 12, 1965, after 17 days of hearings, the Senate Committee on Commerce passed a resolution calling upon the parties to engage in further collective bargaining.

In essence, the resolution was a command to the railroads and the B.L.F. & E. to carry out their responsibilities to realistically and practically undertake collective bargaining in view of the paramount public interest.

The chief spokesman for the railroads called the Senate resolution innocuous, and boldly ignored its clear intent.

The organization, on the other hand, actively sought to initiate collective bargaining. In order to get bargaining underway the B.L.F. & E. served formal notice under section 6 of the Railway Labor Act.

On November 15, 1965, the B.L.F. & E. served three notices; each notice proposed an agreement to be effective at 12:01 a.m. on March 31, 1966, upon the expiration of the award.

Notice No. 1 related to the types of engine services upon which the employment of firemen would be required. The effect of this would be a reduction of approximately 6,000 positions as compared with those which had been required by the national diesel agreement.

Notice No. 2 provided for the compensation to firemen who had been relocated, severed, or otherwise disadvantaged by the operation of the award.

Notice No. 3 set out a training program for apprentices.

The railroads continued their no-bargaining position by describing the notices as premature. The railroad had to meet us because of the act, however, such meetings and conferences were held and completed with each of the railroads refusing to discuss the merits of our notices.

Thereafter, the B.L.F. & E. sought the services of the National Mediation Board with respect to a number of the railroads. The Board docketed a number of cases, appointed a mediator, and scheduled certain mediation conferences, but canceled them when the railroads argued that the B.L.F. & E's notices were the subject of a court suit.

IV. COMPULSORY ARBITRATION HAD A LASTING AND DESTRUCTIVE EFFECT ON COLLECTIVE BARGAINING IN RAILROAD MANNING DISPUTE

A. Carrier legal maneuvers continued effect of award and prevented collective bargaining

I am not a lawyer nor an expert on constitutional law, but it was my belief in 1963, and I hold strongly to that belief today, that Congress intended the arbitration ruling created by Public Law 88–108 to expire in 2 years leaving our agreements in full force and effect, lacking any new agreement in the meantime.

On May 12, 1966, Judge Alexander Holtzoff, the district judge who has handled every case involving award 282, ruled that the award expired in 2 years.

However, he then continued it in effect by ruling that a "new plateau" had been reached. In other words, he gave permanent status to the arbitration award and permitted its destructive effect on firemen's jobs to continue.

Judge Holtzoff went on to say that the brotherhood's section 6 notices, Nos. 1 and 2, were invalid because they would alter the award. Thus, as far as he was concerned, the award was untouchable.

To the carriers, his ruling was better than the original act of Congress or the award itself. Judge Holtzoff in effect told them they did not have to bargain on the fireman issue anymore.

Needless to say, we took the case to the U.S. Court of Appeals for the District of Columbia and received an opinion May 12. I know you understand that there may or may not be appeals involved.

Also, attorneys for the parties have submitted proposed judgments for the court's consideration, and we must wait for the final language of the order.

However, certain language in the opinion stands out as a clear, ringing indictment of the railroad companies that are now before you hoping that Congress will relieve them once more of their responsibility to engage in collective bargaining.

From the briefing I was given on the appellate court opinion, I understand that the court ruled our notice No. 1—concerning jobs for firemen—was both time and bargainable.

Judge Harold Leventhal wrote the opinion and he said this:

> In the case before us the carriers flatly refused to engage in any statutory bargaining whatever prior to the exiration date. Except in the case of objectionable union proposals discussed below, the carriers before us must be held to have breached their statutory duty under the Railway Labor Act to confer and bargain on the merits of proposed changes in work rules.

The appeals court also said—

> We detect no glimmer of an intimation that carriers were authorized to regard this as a two-year hiatus in their obligation to bargain.

Thus, 18 months after we served formal, legal notices for collective bargaining the railroads are finally told they must bargain and that their earlier refusal was a breach of their duty under the act.

But what has happened in the 18-month interim? Have the carriers been injured? Certainly not. They successfully used the courts to carry on the devastating effect of a compulsory arbitration law. They could care less, and all they have to do now is begin bargaining.

For the organization and its members it is a much different story. In the 12-month period since the end of the award, thousands more jobs have been lost; mistreatment of the employees continues unchecked through the denial of job rights and seniority; their earnings remain depressed; and they are denied any element of self-defense in this frustrating, cruel situation.

This organization and its members suffered irreparable damage because of the carriers' refusal to bargain in good faith. We may have to ask Congress to make right the injustice done us, if collective bargaining remains stalled and the courts are unwilling or unable to do so. And, we may be here for that purpose sooner than some may think.

Collective bargaining is the only way to satisfactorily dispose of any issue in controversy. Through that process each party to the agreement has some responsibility in implementing the mutual product.

Before I leave the subject of the court opinion, I want to comment on the newspaper coverage of the case. The Washington Post and one of the wire services reported the case as being a new threat to railroad labor peace and even raised strike possibilities.

Now I know this is standard new coverage procedure, but I protest that it inflames the present situation unfairly. We are not about to set up picket lines. We are trying our best to get Mr. Wolfe away from Congress and to the bargaining table, if such is possible.

Therefore, I want you to know that I am disturbed that news accounts of the recent court ruling would have a poor effect on your deliberations. I hope such is not the case.

V. CONCLUSIONS

A. Compulsory arbitration is never really "one-shot" or temporary

After having to live with compulsory arbitration for 3 years—and it seems more like 30 years—I feel I am entitled to say, respectfully, that I told you so.

In 1963, the Commerce committees of both the Senate and House were considering the administration's proposal for one-shot, temporary compulsory arbitration. I testified before both committees and I want to repeat here a very brief statement I made at that time. This was my statement:

> I suspect that those who support this resolution know that it provides for compulsory arbitration, but they believe it to be just a little bit of compulsory arbitration. But even a little bit will be the hole in the dike. Introduction of compulsory arbitration, so history shows, portends the end of that kind of collective bargaining which government, industry and labor ought to promote—that kind of bargaining which has become associated with and a part of our system of free enterprise.
>
> It marks the beginning of a process wherein one or both parties shuns responsibility and passes the buck to the arbitration tribunal to indicate the terms of the contract. That process, in my opinion, will be pursued in future contract negotiations, if the resolution passes, and Congress again will be confronted with identical problems.

The resolution passed in 1963. In the short span of 4 years, two more critical transportation labor disputes have been brought before Congress, including the present one. It bears out what I said, and what many Members of Congress said would happen.

I am not going to belabor this point, because I know the Congress is fully aware of the pitfalls of becoming a stop along the way in labor relations struggles. Also, it is clear that the railroad industry—which has been here twice in 4 years—is boldly using Congress as a weapon to throttle railroad employees.

Without fear of contradiction, I can say that railroad management will be back before you four, five, six, even 10 times, with labor relations problems until it achieves its professed goal—final and binding arbitration in the Railway Labor Act.

The industry should be told now—in 1967—that Congress will not be part of railroad management's no-bargaining process; that Congress will deal harshly with those who try to use the legislative force

for their own self-interest; and, that Congress will force collective bargaining, but will not force settlements.

B. Pitfalls of compulsory arbitration

We have seen conclusively that there is no such thing as one-shot temporary compulsory arbitration. Its effect is not only sweeping but lasting, and the record shows the railroad industry keeps coming back for more.

Before closing, I would like to list for the record some of the more obvious pitfalls of compulsory arbitration.

1. Rather than promote collective bargaining, compulsory arbitration destroys the climate or atmosphere conducive to meaningful negotiations. Indeed, just the consideration of compulsory arbitration by Congress precludes collective bargaining. It is used as an excuse not to bargain.

2. Compulsory arbitration—bad in itself—can be used or misused to mistreat, harass, and bait employees, and force them out of the industry; all under the guise that the compulsory ruling permits such inhuman and inhumane activities.

3. A "little bit" of compulsory arbitration breeds more. It also does nothing to solve the problem that first set it off. The fireman dispute is an example. After 4 years, the issue is as alive and the dispute as bitter as it was before the temporary settlement was forced by law.

4. In the long-range effect, compulsory arbitration in one industry is easily transferred or widened to include other industries, which are given an "emergency" tag by the public press. Notably, newspaper publishers think compulsory arbitration should prevent strikes in their industry, but Congress has yet to agree.

5. A series of "one-shot" compulsory arbitration resolutions would soon end with final and binding arbitration as part of the labor laws.

As in countries that have such laws now, we find workers striking against government, not industry. We do not want our Nation's workers to be placed in the category of criminals if they defend their jobs.

6. Lastly, compulsory arbitration in any industry will eventually cause nationalization of that industry. I cannot believe that the Congress would force a segment of workers to labor at a forced wage scale, under forced working conditions and then let the industry profit and operate as a free enterprise.

While I believe in the right to strike and it should be preserved, if that is to be denied however, as we did in 1963, we have asked Congress to take a hands-off attitude in the manning dispute and serve as a watchdog over the negotiations we hoped would be forthcoming. As you know that did not happen, but I would recommend the same general idea here today.

When a labor relations issue gets to Congress, the role of Congress is circumscribed to forcing a settlement. Although third-party recommendations are employed, it boils down to Congress setting up a compulsory arbitration board, and then putting the force of law behind the board's decisions. That is compulsory arbitration, pure and simple.

Instead of forcing a settlement, why not force collective bargaining? That may sound strange, but I seriously propose that Congress create, by force, an atmosphere for collective bargaining and mediation.

The resolution you have before you is compulsory arbitration. Change it to make it compulsory collective bargaining.

I suggest that you consider the 90-day period contained in the resolution as a "collective bargaining period." In that period, the employees would be restricted from striking and the railroad industry would be restricted from activities before Government Boards in such matters as rates, mergers, abandonments, and so forth.

There would be a balance of economic impact on both parties. Mediation could then begin with both sides knowing that Congress is not going to force a settlement, but instead, is going to force bargaining until the parties reach agreement themselves.

Some may call the restraints placed on the railroad industry a form of seizure. If it is, it is a mild but effective form. And, you must admit that taking away the employees' right to strike is also seizure of their rights.

I think it important that Congress not indicate what would happen if, after the 90-day period, no settlement had been made. That fear of an unknown solution is often the needed impetus to carry the situation to final agreement.

Congress must recognize that the railroad industry saves money every day it delays a wage increase. True, the increase will be generally retroactive, but just like a financial institution, the industry has use of the money to make more money until the wage increase is agreed upon and paid. Delay must be made unprofitable.

Whether or not my suggestion will gain consideration, I ask you not to approve House Joint Resolution 559 in its present form. The inequities of the 1963 law are in the present resolution, and more compulsory arbitration will further erode the bargaining process in the railroad industry.

Once the present dispute is settled, I hope that the White House and the Cabinet members involved will launch an intensive study and seminar among all involved in transportation labor relations.

While great attention is given during a crisis to the final outcome, there is little attention given to the tools with which we work in our day-to-day functions in labor relations. This is an area that needs not only thorough study but frank and open discussion among all parties, neutrals included.

I would hope that such a study or seminar will stop the regular rush to Congress for compulsion and restore the bargaining process to its rightful and useful place in our economy.

Thank you for permitting me to express these views here today. I have done so with a sincere interest in helping preserve and enhance the rights of free collective bargaining and free enterprise which have made this Nation so great. Thank you.

The CHAIRMAN. Thank you, Mr. Gilbert. I think you have given us a very clear and precise statement of your views and those of your organization.

I am sure that the committee will consider them in any final legislation that might be drawn up by this committee.

Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

Obviously, you forthrightly and directly have shown your distaste for compulsory arbitration. It happens to be a case that I share. I was wondering if you knew or what you thought about a voluntary

arbitration and if you thought voluntary arbitration would work, what is standing in the way of voluntary arbitration?

In other words, binding arbitration but arbitration held and done in a way that keeps the Congress or any governmental agencies from becoming an employer or, for that matter, a manager of a railroad.

Mr. GILBERT. We engage in voluntary arbitration from day to day in our usual proceedings with railroad management and in certain respects under the provisions of the Railway Labor Act which provide for the establishment of the divisions of the National Railroad Adjustment Board we have a form of arbitration in relation to the interpretations of existing agreements.

So, voluntary arbitration has its place but there the parties do come to some agreement on what is to be arbitrated and the terms of the situation which is not true in the arbitration that we are still suffering under, I might say.

Mr. MACDONALD. I am now talking about this difficulty that all of us are embroiled in, trying to settle what would appear to be the threat of a nationwide strike under the set of circumstances which has been presented to the committee.

I was wondering what would be wrong in having both sides to agree on binding voluntary arbitration of this dispute as you have done on lesser matters?

Mr. GILBERT. Again, Congressman, that is a situation that involves a free opinion expressed and an agreement reached between the parties which we have always advocated.

There is very little relation, I might hasten to add, between that type of understanding being reached and that which is being proposed to this Congress to enact.

Again, in answer to your question, Congressman Macdonald, that is a matter for the parties themselves to reach. There are many decisions that are an accompaniment to reaching an agreement to arbitrate which must be reached by the parties themselves.

Mr. MACDONALD. That leads to my last question.

Do you know what is standing in the way of an agreement to arbitrate voluntarily?

Mr. GILBERT. I am not in possession of that information, sir.

Mr. MACDONALD. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Gilbert, I think you have made an accurate presentation of your side of this matter. I would like, if I could, to get before the committee where you are at this time with relation to what has previously happened. Now you do have Arbitration Award No. 282. It went to Judge Holtzoff and then up to the circuit court of appeals. The circuit court of appeals has sent it back at this point with a finding, as I understand it, that the railroads are compelled to negotiate with you.

Now, is that correct? Is that where you are now?

Mr. GILBERT. Not quite, Congressman. We are now awaiting an order from the court which will implement their opinion which was rendered May 12.

Mr. SPRINGER. In other words, at the present time you are awaiting an order pursuant to the decision?

Mr. GILBERT. That is correct, sir.

Mr. SPRINGER. But it is your understanding, and as I read it in the newspapers, the general view of this is that they are compelled to arbitrate?

Mr. GILBERT. Not compelled to arbitrate. They have been found derelict in their duty for their failure to negotiate. I think there are members of this committee here that heard Mr. Wolfe in 1963 say that this 2-year period of the arbitration award would provide ample opportunity for the parties to get together and resolve the dispute. That was back in 1962. We haven't been together yet.

Mr. SPRINGER. Mr. Gilbert, I think you have given here where you believe they stand. It would be that they have not negotiated and they now must negotiate. Is that your general understanding?

Mr. GILBERT. If the opinion is implemented they have said that our notices are both timely and bargainable.

Mr. SPRINGER. Now to come to the second point——

Mr. GILBERT. But I might add, too, the railroads are petitioning the court to rehear that provision about the timeliness of the notice.

Mr. SPRINGER. Now they do have a time within which they can appeal to the Supreme Court if they wish.

Mr. GILBERT. I understand that.

Mr. SPRINGER. Now let me find out exactly where you stand today. My understanding from reading the newspaper over the weekend is that the President has now given a notice, is this correct, a 60-day period for cooling off under the Railway Labor Act?

Mr. GILBERT. Congressman Springer, that involves the order for railroad conductors and brakemen in connection with disputes they have over wages and inequities.

Mr. SPRINGER. This does not refer to you?

Mr. GILBERT. No, sir, it does not.

Mr. SPRINGER. Now there is no intervening act which anybody in the Government can file against you at this point, is that correct?

Mr. GILBERT. I am not too sure.

Mr. SPRINGER. Is this your counsel?

Mr. BENNETT. Yes, sir.

Mr. SPRINGER. You are a lawyer?

Mr. BENNETT. Yes, sir.

Mr. SPRINGER. Would you state your name, sir.

Mr. BENNETT. Donald Bennett.

Mr. SPRINGER. Is it your understanding that at this point now, that the President or anyone else could not file some kind of notice which would put this off?

Mr. BENNETT. Yes, sir. I think the point is that the negotiations that Mr. Gilbert is talking about are just starting and the process under the Railway Labor Act are yet to come. You mention the conductors with an emergency board which is the last step under the Railway Labor Act. In the manning issue the organization is just now able to start the negotiations under the Railway Labor Act. So we have mediation to look forward to, sir, and possibly an emergency board.

Mr. SPRINGER. I was under the impression you had already gone through this 2 years ago and were now back to a point where they had to negotiate.

Anyway, it is your opinion that up to this point the whole process has not been exhausted and sometime in the future it would be legally possible for the President to invoke the 60-day clause, is that correct?

Mr. BENNETT. Yes.

Mr. SPRINGER. I am trying to find out where you stand in this thing. That is my purpose in asking the particular question.

Mr. GILBERT. I may have been a little facetious when I said I did not known what has happened, so much has happened that could affect us. That is the reason for the type of answer I gave.

Mr. SPRINGER. Are you in the process of bargaining over wages?

Mr. GILBERT. No, sir.

Mr. SPRINGER. This is altogether a question of working conditions and the number of people who may be retired or laid off, is that the problem?

Mr. GILBERT. At the present time, Congressman, the only thing that is in evidence in relation to the manning issue is our Notice No. 1 which I outlined in here. The court has set aside our Notice No. 2 that was referred to and then we have a Notice No. 3 containing request for training program for apprentice firemen (helpers).

Mr. SPRINGER. Are you a part of the proceeding here for wages and improved conditions? Are you a part of this six or eight brotherhoods?

Mr. GILBERT. No, sir; we are not.

Mr. SPRINGER. You are not involved in that dispute at all?

Mr. GILBERT. We are not.

Mr. SPRINGER. I am trying to limit, to find out where you are as distinguished from the rest. Do you anticipate being in a position to bargain on this later or is that an issue at all?

Mr. GILBERT. Well, we reached a settlement in November concerning wages. Now we are free to initiate a request for changes in rules and in July we will be free, again, to institute another request for wages.

Mr. SPRINGER. In other words, pursuant to the ending date in November pursuant to the act?

Mr. GILBERT. Yes. Pursuant to the negotiations that were initiated in January of last year.

Mr. SPRINGER. You are not testifying as a member involved in this present dispute but based upon your experience of what you believe is in the public interest, is that right?

Mr. GILBERT. That is right.

Mr. SPRINGER. Thank you.

The CHAIRMAN. Mr. Van Deerlin.

Mr. VAN DEERLIN. Mr. Chairman, thank you.

Mr. Gilbert, would you give us an opinion on the Adams-Moss-Dingell substitute resolution that was introduced about 10 days ago in this matter?

Mr. GILBERT. I am sure I am not qualified to give you an opinion about the ramification of that as such. I have read it and there are certain provisions that I see are objectionable because of the manner in which the seizure may take place. If there is a seizure to take place we believe it should be an executive seizure rather than a court seizure and that both sides of the dispute should be treated alike.

If the employees are not free to exercise their self-help, then the same right to operate for profit should be denied their employers.

Mr. VAN DEERLIN. Do you see in this approach the desirable feature of heading off compulsory final arbitration?

Mr. GILBERT. I cannot find in the examination I made of the bill you mentioned the avoidance of that ultimate being brought about. I may be wrong in my impression but that is my impression of it.

Mr. VAN DEERLIN. I think you are not wrong. That is the one thing that I see in it that really does not change things. It may prolong the action a while longer. You, of course, ask the members for a very difficult favor—that we leave completely open the idea of what Congress would be disposed to do, if no settlement is reached by June 19. I think that most members are going to be reluctant to leave the impression, at a time of national emergency, that the railroads are going to be permitted to shut down.

Mr. GILBERT. Of course, I have some views about that. If somebody quit putting their arms around the railroads' shoulder every time they get into trouble they would get down to the bargaining table and settle these issues where they should be. But as long as they wait until these emergencies arise and run to the Congress for help and Congress gives it to them, they are going to keep coming back. That is the prediction I made some time ago.

Here is an issue that the representatives—I am talking about our own issue from our experience—that the representatives of the railroads told Members of Congress, give us this 2-year period and we will negotiate a settlement. They have not sat down with us that first minute yet in an order to implement what they told Congress they would do. As long as they have a place to go to have somebody else to shoulder their responsibilities in collective bargaining that is where they will go, because they will profit by it.

They are relieved of their responsibilities then of the give-and-take that we have come to know in the process of collective bargaining that has made this country great. Once you take your arm from around their shoulder and tell them get on there and shoulder their responsibilities and discharge them and meet with the employees, they won't be coming back.

They won't have the confidence—unfortunately, they are told, you know, this country can't stand a railroad strike. The moment they are told that, they relax. They have nothing more to do. They know then that the employees are helpless to further promote their interest and they know they have nothing more to do because Congress has bailed them out.

I don't know how strong I could suggest it, but as strong as I can I would urge that they be told accept your responsibilities in collective bargaining and don't be trying to pass it off on somebody else.

Mr. VAN DEERLIN. Thank you, Mr. Gilbert.

Mr. Chairman, in Mr. Pickle's absence I have been asked to seek unanimous consent that an analysis of his proposal on railroad strike legislation be included in the record of the hearing, in the event that the hearing terminates before Mr. Pickle is back.

Mr. MACDONALD. Reserving the right to object, Mr. Chairman, I did not quite understand this. His analysis of what?

Mr. VAN DEERLIN. He wishes to include in the transcript of these hearings a presentation on the proposed legislation that he would seek, permanent legislation, to avert problems of this kind.

The CHAIRMAN. Whose analysis?

Mr. VAN DEERLIN. His own analysis. He will have it ready tomorrow. He is fearful that the hearings may end this week.

The CHAIRMAN. We don't mind a bill being put in because it is a matter of record. But I don't want an interpretation that he has not seen, and that he has not prepared, in the record. I will object to it.

Mr. VAN DEERLIN. I can't think of a more formidable objection. I would like the record to show that the request came from Mr. Pickle himself, however.

The CHAIRMAN. Is that all?

Mr. VAN DEERLIN. Yes, sir.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

I want to comment to Mr. Gilbert that the thing that concerns the Members of Congress, including myself, is the tremendous problem that we will be faced with in the event of a nationwide strike in the railroad industry, not only dealing with the problem you cite, but also the other problems immediately in the picture.

Now you indicate a preference of seizure to a strike going into effect, do you not?

I did not put it exactly right. If a strike does not take place, you would suggest, as an alternative, a seizure?

Mr. GILBERT. If they are going to stop the employees from the exercise of their self-help, then they should not be half fair about it. Also, to stop the industry from operating as a free enterprise during the period of time that the employees are denied certain rights as citizens.

Mr. MACDONALD. Now you indicated that the railroads do not think that the country can stand a nationwide strike. Do you think the country can stand it?

Mr. GILBERT. I did not say it was the railroads. Somebody keeps telling them, you know, this country can't stand a railroad strike. I am talking about people in Government who keep saying that. I have heard that too often in the years preceding the compulsory arbitration. Every time it was uttered by a person in Government, then the railroad representatives relax, because they knew they didn't have to do anything and the employees weren't free to do anything either.

Mr. MACDONALD. Do you think the Nation can stand a strike?

Mr. GILBERT. As I understand the situation, Congressman, the organizations involved have offered to carry on the transportation of necessary materials to keep the war effort going and for other matters such as we did, for example, in 1966, which is not an unusual proposal made by the organizations who are to exercise their self-help.

During that time our war effort would not be hampered and some of the freedoms that those boys across there are fighting for might be maintained for them when they return to this country, because there are many of them involved whose organizations are trying to preserve the conditions of employment as well as their wages in their absence.

That is something that was put pretty forcefully to me not long ago at a meeting I attended with some of our veterans who have served in other wars.

Mr. MACDONALD. I have heard the comment by many responsible people that in the event that a nationwide strike did take place, that the public's demand would almost immediately call on Congress to enact some long-term legislative process for settling of the disputes and if this happened, labor and industry would both be controlled by legislative act. This seems to be an inevitable thing which I hope does not have to happen.

But in a strike or in a negotiation of settlement of contract, both sides have the right to have an opinion. Wouldn't it be true that in the possibility of a nationwide strike, somebody will have to buckle under no matter what the elements of this case, it is so serious?

Mr. GILBERT. They have a greater responsibility than just the exercise of an opinion on both sides, in my opinion. They have a responsibility to perform in the process of collective bargaining which one side of this dispute, as I understand, has not been doing. I know from our own experience they have not been doing it.

It seemed to me that somewhere along the line there should be some way to put a stop on putting a premium on failure to bargain.

Mr. MACDONALD. At the time the issue was before us before, I definitely recall persons in leadership positions on not only the railroad side but the labor side who came to us hoping that we would take the cat off your back. I do think coming to Congress has been a deterring effect on proper negotiations, as you have indicated, and I think everybody should bargain in good faith.

I hope that this can be effected and we can avoid any action during the Congress on this whole issue.

I thank the gentleman for his statement. I am hopeful that the settlement can be reached, because the country badly needs it.

Mr. Blanton?

Mr. BLANTON. Thank you, Mr. Chairman. I have no questions.

Mr. MACDONALD (presiding). Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman.

Did I understand you to say that collective bargaining is what has made this country great?

Mr. GILBERT. One of the things; yes.

Mr. KEITH. I would agree, where the collective bargaining is for nonessential goods and services and where there are alternative choices of substitute goods and services, but in this case the bargaining is with a whole industry for the services of which there is no ready substitute. We have special problems here where the public has a very vital interest in essential goods and services.

I was particularly interested in your suggested collective bargaining period during which the employees would be denied the right to strike and industry would be restricted from certain activities such as seeking changes in rates, or approval of mergers and abandonments.

Can you think of any other restrictions upon management or labor which would force the parties to negotiate? I have in mind the suggestion of a Yale professor that certain portions of labor and management salaries be placed in escrow and at the expiration of certain time periods without a settlement these funds be forfeited to the Government. Have you considered that idea?

Mr. GILBERT. I am afraid that is a new one on me. I have not had access to it, at least.

Mr. KEITH. Can you think of any other ways in which management and labor could be forced to bargain?

Mr. GILBERT. Again, I may have to repeat a little in this, Congressman. The benefits that accrue or have accrued on the basis of lack of bargaining should be removed and that has only been a one-way street as far as we can see.

Management says, "Well, we are not going to do it," and they are told, "Well, you know, we can't stand a railroad strike."

If they are uncertain about what the end results would be, as I have seen that occur through the years, they would get to the bargaining table and dispose of these issues where we believe they should be. I know my own experience runs over a period of some 40-odd years, but during that period of time we sat down at the table and regardless of the tremendous size of the problem as it appeared to be, we always found a plateau on which we could have a comman meeting and dispose of it.

But recently the carrier representatives have found it profitable, let us say, to pass the responsibilities that should be on their shoulders to Congress. I can't see it in any other way.

Mr. KEITH. I was impressed by Mr. Macdonald's observations regarding voluntary arbitration. Certainly it is appropriate that certain of the problems could be worked out in this manner. Can you think of any possible ways that you could voluntarily arbitrate the problems?

Mr. GILBERT. Understand, Congressman, I cannot speak of the observations involved. I can only repeat what I told Congressman Macdonald. There are many areas where, through the years, we have agreed——

Mr. KEITH. I heard that. I wondered, is there any possible way in which the unions might accept voluntary arbitration?

Mr. GILBERT. Unfortunately, Mr. Congressman, I can't give you any help on that because I cannot speak for the organizations involved.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Kyros?

First of all, I would like to welcome Congressman Kyros to the committee. To my knowledge, this is his first appearance on the committee. We welcome you. We are very glad to be able to serve with you.

Mr. KYROS. Thank you very much, Mr. Chairman. I am glad to be with you. I have no questions at this time.

Mr. MACDONALD. Mr. Carter?

Mr. CARTER. Is it your feeling that collective bargaining between the railroad unions and management is not taking place because of the threat of passage of the Staggers bill, 559?

Mr. GILBERT. I think that is the relief that the representatives of the railroads feel gives them comfort. If they can get this, then they are relieved of their responsibilities to negotiate with the employees.

Mr. CARTER. Certainly I think most of us would like to see collective bargaining take place and get this thing settled. However, it puts us

on a hot spot. We certainly would hate to see a strike at the present time because of the national situation. We would like to see something worked out so that we could have free collective bargaining to settle this dispute. Certainly I should like to see that done by collective bargaining.

Thank you, Mr. Chairman.

Mr. MACDONALD. Mr. Brown?

Mr. BROWN. Mr. Gilbert, are there any circumstances under which you might favor compulsory arbitration? For instance, if you were fairly well assured that compulsory arbitration would conclude in favor of the views of the unions, negotiation would be little less——

Mr. GILBERT. There are no circumstances under which I would favor compulsory arbitration. The word "compulsion" is not synonymous with my feeling—not in consonance with my feeling of freedom in this country. It just does not fit our way of life. I cannot think of any circumstances under which I would favor compulsory arbitration.

Mr. BROWN. Would you agree with the conclusion of Mr. Nelsen's suggestion that if there were a rail strike in this country that it would not be very long before the people of the country would demand some kind of action in this case?

Mr. GILBERT. Let me put it this way: I believe that if there was a thought that this railroad strike was going to take place, you would see some exercise of authority on the part of the railroad management to get to the bargaining table and try to find a way to dispose of this. They don't have to do that now because they have the thought that somebody is going to bail them out again. There is nothing to—well, to even give them an idea that they ought to bargain because if they have hopes that this compulsion will be passed, and again I say heaven forbid, they don't have to do anything, you see.

But again, when you take the right of the individual to strike away from him, then you create an imbalance if at the same time you refuse him the right to strike you tell his employer "We are going to compel him to do something." Then the imbalance is created as between the two forces in collective bargaining, the one side loses everything and the other side, with which he must bargain, gains everything because he doesn't have to do anything because he knows the employees can't.

Mr. BROWN. Does the same thing apply the other way if we were to go into seizure or if the piece of legislation we are debating would call for seizure?

Mr. GILBERT. If you get into seizure, then you have created another element not present here yet. There is nothing, as I see it, in the joint resolution that says anything about seizure.

Mr. BROWN. I am suggesting the possibility that we were debating, as our choice, the legislation in front of us, seizure as opposed to compulsory arbitration. Do you think that would make for an imbalance on the other side?

Mr. GILBERT. No, I do not, because it would recreate an imbalance because then there is a threat on both sides. We don't know what is going to happen. You then have placed upon you the full responsibility, any time you take any one of these jobs, as well as management, to fulfill your obligation in collective bargaining because that is exactly what it is. You bargain so much for what you get from the other side. Through the years, we have reached these plateaus through that process until Congress started putting their arms around management.

Mr. BROWN. You suggest Congress placing arms around management. This is not Congress legislation. This legislation comes directly from the administration.

Mr. GILBERT. I understand that it was Congress that passed compulsory arbitration in 1963.

Mr. BROWN. At his suggestion.

Mr. GILBERT. I don't know whose suggestion.

Mr. MACDONALD. The time of the gentleman has expired. We certainly welcome you here, Mr. Gilbert. I think you have made a fine contribution.

There is one more witness, and if we can hear him this morning it would be helpful.

So, on behalf of the committee, our thanks.

Mr. GILBERT. Thank you, sir.

The CHAIRMAN. Mr. Charles Luna, president of the Brotherhood of Railroad Trainmen.

STATEMENT OF CHARLES LUNA, PRESIDENT, BROTHERHOOD OF RAILROAD TRAINMEN; ACCOMPANIED BY A. H. CHESSER, LEGISLATIVE REPRESENTATIVE

Mr. LUNA. Mr. Chairman, I want to thank the members of the committee for allowing me to appear.

My name is Charles Luna. I am president of the Brotherhood of Railroad Trainmen, AFL-CIO.

To my right is Mr. Al Chesser, our national legislative representative in Washington.

I have a prepared statement which is here, but I ask your patience while I speak from notes relating to this statement on House Joint Resolution 559.

Mr. MACDONALD. I think it would be perfectly proper, Mr. Luna, if you wanted to have included in the body of the record your entire statement and then paraphrase it so that the committee members might be able to question you.

Mr. LUNA. I would appreciate that, Mr. Chairman.

Mr. MACDONALD. Without objection, it is so ordered.

(Mr. Luna's prepared statement follows:)

PREPARED STATEMENT OF CHARLES LUNA, PRESIDENT, BROTHERHOOD OF RAILROAD TRAINMEN, AFL-CIO

I want to thank the members of this committee for the opportunity to appear in behalf of the employees I represent.

My name is Charles Luna. I am president of the Brotherhood of Railroad Trainmen, AFL-CIO.

I am appearing today in opposition to the proposed H. J. Resolution 559, placed before the Congress by the President in his May 4, 1967 message. This is the dispute involving the carriers represented by the National Railway Labor Conference and the six shopcraft unions.

On July 31, 1963, I appeared before the Committee on Interstate and Foreign Commerce of the House, 88th Congress, to oppose the enactment of legislation proposed by another President to prevent a nationwide rail tieup threatened by the railroads. (H.J. Resolution 565).

Then, as now, railroad management wanted a crisis in the hope that the Congress would bail them out and give them undue advantage in dealing with their employees by giving them compulsory arbitration. They got it then. I hope and pray that this Congress will not make the same mistake.

Since the enactment of the 1963 compulsory arbitration law, known as Public Law 88–108, the railroad employees in train and yard service have been drastically affected contrary to what Congress intended. The provisions of Public Law 88–108 were only intended to last for a period of 2 years, the same as the provisions of this new legislation. But that is not what happened.

The railroads have obtained court decisions to the effect that the special board decisions constituted a permanent change in our agreements, which change came about strictly by compulsory arbitration! And to make it worse, these railroad employees were required to pay half the cost of these arbitration procedures which were designed for the benefit of management! Thousands of dollars came out of the pockets of railroad brakemen and switchmen to pay for the elimination of their jobs! Some of the very men who lost their jobs helped pay for their own execution!

Now this arbitration procedure which the Congress passed in 1963 provided that the award of the arbitration board expired at the end of two years. Section 4 (of Public Law 88–108) stated in part as follows:

". . . The award shall continue in force for such period as the arbitration board shall determine in its award, but not to exceed two years from the date the award takes effect, unless the parties agree otherwise."

But that provisions didn't mean a thing to the courts, because parts of the award and all of the results of the procedures it established are still in effect by court order, which is under appeal now.

The crew consist dispute, as it developed following the enactment of the 1963 Compulsory Arbitration law, shows what will happen to collective bargaining on the railroads if the Congress continues to intervene in these disputes not because there is an actual emergency but simply because they are afraid there might be one! It also shows you what the railroads are up to.

Congress, in passing the 1963 law, intended for the parties to continue to negotiate in attempts to settle the crew consist issue. All concerned understood that.

Mr. Wolfe, representing the railroads, testified before the House Committee on Interstate and Foreign Commerce, on page 559 of the transcript of hearings on H.J. Res. 565 in 1963, as follows:

". . . Mr. BROYHILL. My final question is, would not the party that would be favored by any ICC interim rule be reluctant to bargain and thus the doors of bargaining would be closed for all practical purposes?"

". . . Mr. WOLFE. I think responsible people to whom this resolution would be applicable must certainly realize that by the end of 2 years they ought to have their problems solved. They are going to have to solve them sometime, and this is the only temporary relief to protect the public interest as we understand it."

". . . Mr. BROYHILL. You are saying that if the railroads were favored by any ICC interim rule that you would still be willing to bargain?"

". . . Mr. WOLFE. We will be willing to bargain under any circumstances. But when I say bargaining, I mean bargaining in its true and accepted sense, that both parties sit down and in a manner that is favorable to both of them. Give and take, as I understand, doesn't mean that one party gives and the party takes. They both give and they both take."

In the hearings before the Senate Committee on Commerce in 1963, Secretary of Labor Wirtz testified and stated as follows:

From page 47, transcript of hearings.

". . . This interim rule would go into effect for a 2-year period or until the parties reached their own settlement by collective bargaining. And it is urged all the way through here that collective bargaining procedure continue and that the final answer be found there."

And Mr. J. E. Wolfe testified before the Senate Committee on Commerce as follows:

From page 364, transcript of hearings.

". . . Senator MONRONEY. Do you take this bill that is before us, with all that is at stake in the shutdown, as being a means of obtaining a compulsory arbitration under another name?"

". . . Mr. WOLFE. No, sir; I do not. I think that I agree with the description of that resolution by Mr. Wirtz, Secretary of Labor, that it does give the Interstate Commerce Commission the authority to establish interim rules. And during that period it contemplates that the parties themselves, as they eventually will have to do sometime or another, will finally dispose of these long, drawnout disputes by collective bargaining."

So what happened during the 2-year period under the arbitration law? Several important things.

I encouraged our representatives on individual railroads to seek out their managements and attempt to make a fair and reasonable settlement. Some few of them were able to do so. Some railroads did not even propose any changes under the arbitration award. But during the period of the arbitration award, from January 25, 1964, until January 25, 1966, the Mediation Board appointed 93 neutrals to serve on special boards under the award. Their decisions, in almost every case, rubber-stamped the compnay's proposals. The result was a mockery, a company-dominated procedure.

In January of 1965, I took a personal hand in the crew consist dispute. I contacted some of the top railroad officials in the East and told them that we could negotiate a settlement. They sat down with me and on January 29, 1965, we wrote an agreement which settled the crew consist dispute on most of the railroads in the East, including such lines as the Pennsylvania and the New York Central. Later, others joined including the Baltimore and Ohio system, until the total reached 32 railroads. And this settlement was for a 5-year period with changes thereafter to be in accordance with the provisions of the Railway Labor Act.

Next, I wrote letters to the Presidents of a number of railroads in the West and Southeast, furnishing them copy of the Eastern Agreement. I ask for a conference at which this problem could be discussed and perhaps settled by mutual agreement. I hoped that the solution to this crew consist dispute had been found.

The replies began coming in and almost every one of them either referred me to their personnel department or advised me that their problems on crew consist would be handled by the National Railway Labor Conference. Not one single railroad in the Southeast or West was willing to settle, or has settled to this day. Those which had previously settled reopened the dispute.

Left with no other choice, I authorized our general chairman on each railroad which had not settled the crew consist dispute to serve formal notice under the Railway Labor Act, in order to initiate conferences to dispose of the matter before the end of the 2-year period. The railroads responded by taking the position that they were not required to bargain until the 2-year period expired! They went to court to avoid the conference table, and they took the position in the courts that the Railway Labor Act required the parties to bargain nationally when the railroads proposed to do so. Judge Holtzoff, in the district court in Washington, upheld them in their contention that if some of the railroads wanted to combine the dispute into a concerted movement, the employees had no choice under the Railway Labor Act but to follow that procedure. He got that support out of some other law, because he could not find it in the Railway Labor Act. Today, the issue is before the Washington Court of Appeals, and I am glad to say that our position is being supported by the Justice Department, which is taking the position that the district court has forced bargaining over crew consist into a national mold—so that unless agreement is reached on that issue, the public may be confronted with another national railroad crisis.

Now that is just what these railroads are up to. If you don't give them what they want in this dispute before you now, and if they have their way in the courts, they will be back before you again begging for compulsory arbitration.

Somewhere along the line, collective bargaining is going to have to be resumed on these railroads if they are to continue to be under private control and ownership.

Our members are writing to me daily and they are plenty sore. They want to know how it is that the courts can disregard the action of the Congress and extend the period of the existing law by extending the terms of the Arbitration Award under PL 88–108. They are not satisfied with any answer I can give them since all I can say is that the thing is still in court—we are still appealing for justice! They are sick of waiting for justice. They want action from their representatives to better their working conditions, and they are fed up to the neck with these pro-management arbitration awards and court judgments.

They want to know why the railroad brotherhoods cannot represent railroad employees like unions in other industries do. They feel that their work is important enough to justify working conditions equal to those enjoyed by other groups of workers, and I agree with them 100 percent. But when I try to help them improve their working conditions, what happens?

The railroad attorneys just go and wake up a judge and get him to write them out an injunction.

When the courts get through kicking it around, months later, and discover that we had the right to bargain collectively all the time, and turns us loose to go ahead with our case, the railroad attorneys simply figure out another angle and go back to another judge or maybe the same one and bingo! We are stopped by another injunction!

The whole picture adds up to this proceeding here, where the railroads are trying to get the Congress to pass a law providing for compulsory arbitration as a permanent change in the Railway Labor Act. They believe that if they come back to the Congress and scream loud enough, they won't have to bargain ever again with their employees because Congress will give them what they want. That will be a sorry day for human liberties when a giant industry can put the yoke of compulsion on their employees with the aid of Congress!

The men who operate the trains of this Nation are demanding that their rights to freedom in collective bargaining without discrimination be preserved and strengthened. I urge you not to forget that these men are not in Government employment. They work for a rich and powerful combine which collectively is using the vital nature of their product to gain an advantage in collective bargaining with their employees! Please don't let that happen in America!

Mr. LUNA. I am appearing in opposition to House Joint Resolution 559, placed before the Congress by the President on May 4. This concerns the dispute of carriers represented by the National Railway Labor Conference and six shopcraft unions.

I have been here before when another President proposed a similar law in another railroad dispute. At that time a nationwide railroad tieup was threatened by the action and attitudes of the carriers. Then, as now, the railroad management wanted a crisis of national importance.

Then, as now, they hoped Congress would bail them out with compulsory arbitration. They got it the first time and I hope this Congress does not make the same mistake.

Since the law was passed, the train and yard service employees have been drastically affected contrary to the intent of Congress. Public Law 88–108 provisions were to last for 2 years. But that is not what happened. The railroads got court decisions stating that Board awards were permanent changes in our agreements, not just for 2 years, as the law intended.

To make it worse, the railroad employees had to pay half the cost of the arbitration procedure, which had been designed for the benefit of the management. Thousands of dollars came from the pockets of brakemen and switchmen to pay for the loss of their own jobs. Some of the men who lost their jobs helped pay for their own execution.

By definition, as stated in the law itself, in section 4, the award of the Arbitration Board expired at the end of the 2 years, quoting from page 4 of my prepared statement. That did not mean a thing to the courts. Parts of the award and all the results of the procedure, the setup, is still in effect by Board order, which, needless to say, is under appeal.

I also, as I said, appeared before the committee on that in 1963. I heard the management testify; I heard the Labor Department testify that if the Congress gives them this law, 88–108, that they felt reasonably sure that we would get to a just settlement between the two parties before the law expired.

In place of the carriers trying to settle—I say the majority of the carriers trying to settle, as was the intent of the law, they took the position that they did not have to negotiate and went to the court-

house and you know and I know that the courts decided the case and we are still in court over it.

The crew consist dispute gives a real example of what happens to collective bargaining under compulsory arbitration and what can happen again if Congress intervenes, because you fear there might be an emergency.

I don't think that Congress understood the last portion of that when they passed the law in 1963. That national crisis was not caused by the unions promulgating their rules. The national crisis was caused by the railroads promulgating their rules and trying to take working conditions away from men that they had had for 30 and 40 years.

As a good example of it, one of the rules was that they would have the sole right to establish where the terminals would be. People had built their homes, helped build the communities, were uprooted overnight and out in the cornfields, or somewhere else.

By doing that, they served notice that at a certain time they would put their rules into effect and it wasn't going to be caused by anything that the unions did; it was something that management was doing.

It can also show you what the railroads are up to. Under Public Law 88–108, Congress intended the parties to continue negotiations. Everybody understood that. I will say this: that Mr. Wolfe testified to that, the chief negotiator for the carriers. Secretary of Labor Wirtz clearly understood the intent of that law.

I refer you to quotes from the record as shown in my prepared statement on pages 4 through 7. But what actually happened during the 2-year period under the law when we tried to negotiate?

I encouraged our representatives to seek out their management and try for a fair and reasonable settlement. Some few of them were able to do so. Ninety-three neutrals were appointed by the Mediation Board during the 2-year period of the law to serve on special boards. Their decision in almost every case rubberstamped the company's proposal.

In January 1965 I took a personal hand in the dispute. I contacted top management officers in the East and told them we could negotiate an agreement. We sat down and wrote an agreement on January 29, 1965. This agreement settled the crew controversy in the East, including such railroads as the New York Central and the Pennsylvania. Others later joined, including the B. & O., until the total had reached 32 railroads. This settlement was for a 5-year period, with changes thereafter to be under the Railway Labor Act.

I next wrote the railroad presidents of the West and Southwest, giving them a copy of the eastern agreement and asking for a similar meeting. I was hopeful we had found the solution to the crew consist problem. Replies told me otherwise. They all referred me to their personnel department or said that the National Labor Conference would handle it. Some of those who had settled reopened the dispute.

I would like to tell you what happened there. In the East I met with Mr. Saunders, president of the Pennsylvania. I met with Mr. Perlman, or his representative, of the New York Central. I met with the late Bill White, president of the Erie & Lackawanna.

They told me that they understood what Public Law 88–108 intended to be and they were willing to sit down and work out an agreement. We worked out this agreement in less than 3 hours. We signed

this agreement to be effective at the expiration of the 2 years, as the law provided.

After we signed this agreement, the railroad negotiating team, Mr. Wolfe & Co., moved in and from that day on I was only able to get one or two other agreements from the railroads. I tried desperately to get the presidents of these railroads to meet with me, like the eastern railroads did, so that we could sit down and they refused to meet with me and said that the Association of American Railroads would handle the negotiatons, and from that day to this we have not been able to get a meeting with them on it.

We also have been in court. We also got a decision that they should have negotiated with us, but that is a year and some odd months after the award runs out. We have been through the court. We have paid the price for it and we are going back in there when we get the order and try to negotiate on the rest of the railroads.

I then authorized the general chairmen to go in and negotiate. They, too, were refused. They said they were not required to bargain until the expiration of the 2-year period.

What makes it worse, they took it to Judge Holtzoff. They agreed with him. He got his quote out of some other law because he could not find it in the Railway Labor Act. The issue is now before the court of appeals and has been decided and they said the carriers did not negotiate in good faith and told them to do so.

Now, on top of that, one of the members asked what we thought of the national railroad crisis. If you will check the history, you will find out that 1946 was the last national railroad strike we had. It lasted 2 days and it was settled. They wrote us a pretty plain letter, that Congress and the American people wouldn't stand for a national railroad strike.

I interpreted that letter to mean they meant what they said. So we started moving on each individual railroad. What happened then? They took us to court and said that we didn't have a right to negotiate on individual railroads; we had to negotiate on a national basis.

We spent 5 or 6 days before Judge Holtzoff and explained to him and proved our case that all they were trying to do was set up a national crisis every time we moved. We felt that we shouldn't be a party to a national crisis, we should be big enough to settle our own differences by direct negotiation.

Judge Holtzoff held with them and told us that we had to bargain nationally. Now that case is on appeal. Thank heavens the Justice Department has filed with us. They, too, see the errors in having to negotiate nationally on everything. That shows very clearly what the railroads are trying to do. They have come to the point that if you don't give it to them now, the court gives it to them their way, they will be back again and the demand will be for compulsory arbitration.

In some way, collective bargaining must be resumed on these railroads if they are continued in private control and ownership. Our members are angry. They write every day asking how the courts can disregard congressional action. They are sick of waiting for justice. They are fed up with pro-management boards and court judgments.

They want their elected representatives to bargain for better conditions. They want to know why the railroad brotherhoods cannot represent their members like industrial unions can.

Every time we try to do that, the railroad attorneys go and wake up the judge and get him to write out an injunction. Now we find the railroads trying to put compulsory arbitration into the Railway Labor Act on a permanent basis. They think if they cry loud enough before Congress they will get what they want.

Our members are asking for their rights without discrimination. Don't forget them. They work for a powerful economic giant which is using the vital nature of its service to gain an advantage in the bargaining procedure. Don't let it happen.

Since I have prepared this statement, another matter has come to my attention on which I would like to comment briefly.

The shopcraft has offered to move all rail shipments essential to the military and public health. The Brotherhood of Railroad Trainmen agree with them and will join in their efforts to help them.

I would like to point out that there has not been a national crisis in recent times in railroad disputes. Public Law 88–108 was enacted out of fear of an emergency. How can anyone know what would happen in any national strike? We offered to move all vital trains, including passengers and commuters, as well as military material and trains for the health and welfare of the people.

Granting the railroads compulsory arbitration is no solution to this crisis. You gave them a taste of it in Public Law 88–108 and they are back again. Do it again and you will set a pattern that will spread like a cancer through all of labor.

You take the power of collective bargaining away from labor with compulsory arbitration, you give all the advantages to management, the next step for the railroads is nationalization.

I warned of this in New York in 1963. There is no such thing as restriction or temporary compulsory arbitration. It becomes a habit, a ready solution. The only trouble is that in the process, it destroys one of our basic freedoms, collective bargaining, a freedom which has helped make our free enterprise system so great.

The CHAIRMAN. Thank you very kindly, Mr. Luna. I know that your testimony will be of help to the committee in making their decision. Although this bill involves a different issue, it is closely related to what you have talked about to some extent. We only can judge the future by the past and this is something that is on the record and which has taken place.

A lot of people are prone to ignore things that have gone on in the past but that is the only way we can tell what the future might hold.

Now I was interested in one thing. You said that in your crew consist situation that you had negotiated with several of the eastern railroads and reached an agreement?

Mr. LUNA. We reached an agreement like the law called for, and the general law called for, with 34 eastern railroads.

Now Mr. Saunders, Mr. Perlman, the late Bill White told me, they understood what the law meant. We sat down and worked out an agreement to be effective at the end of 2 years. We didn't try to make it effective before that.

I am proud to say it has worked marvelously. It has not made any trouble. The men are contented, but the other railroads, we tried to

do the same thing with them and they refused to sit down and talk with us.

The CHAIRMAN. Why did they refuse?

Mr. LUNA. I can't say except that they all wrote back the same letter. It looked like a letter that had come out of the office in Chicago, a form letter, where all of them told me that their personnel office would handle it or they would handle it through the railroad negotiators like they do everything else.

The CHAIRMAN. By railroad negotiators, whom do you mean?

Mr. LUNA. National, Mr. Doc Wolfe and company.

The CHAIRMAN. Did Mr. Wolfe move into the picture then?

Mr. LUNA. No, sir; he never would meet on it.

The CHAIRMAN. Did you have any collective bargaining on it?

Mr. LUNA. No, sir.

The CHAIRMAN. Before this you had had collective bargaining?

Mr. LUNA. Since the law was passed the only place we had collective bargaining was with the eastern presidents. They sent two vice presidents in to consummate this agreement. They understood it. We talked about it and they tried to do what was right.

The next morning after we made this agreement and signed it, I had a call from Mr. Wolfe who asked me had we made this agreement.

The CHAIRMAN. I am trying to read between the lines. You were proceeding all right.

Mr. LUNA. Yes, sir.

The CHAIRMAN. With the railroad presidents as you had to do and as they understood the law.

Mr. LUNA. Yes, sir.

The CHAIRMAN. Passed by this Congress.

Mr. LUNA. Yes, sir.

The CHAIRMAN. Then something fell apart?

Mr. LUNA. When they found out what was going on, in my opinion, from the form letters we got, someone stopped the rest of them from dealing with me and trying to make a settlement.

The CHAIRMAN. I thought that the positive intent of our legislation in 1963 was to insure collective bargaining.

Mr. LUNA. That was the intent.

The CHAIRMAN. That was the mandate of this Congress. You say something stopped it and there were never any more meetings.

Mr. LUNA. Never any more.

The CHAIRMAN. Then the will of Congress was not followed along this line.

Mr. LUNA. Mr. Chairman, it is the same principle, whether you call it a different issue or not. It is a principle of the management people who testified before this committee, testified they would do one thing, and I for one am telling you that these people also testified, never did what they testified they would do.

They said, if you read the testimony, "We can settle this within the 2-year period." They never tried. They even took us to court and after we couldn't get the railroad managements to meet with us we served a section 6 on them, thought we could get them to meet that way; they took us to the court. The court said they didn't have to meet with us until the award expired and we just got that reversed less than 2 weeks ago.

The same thing will happen here; don't kid yourself.

The CHAIRMAN. The understanding when this law was passed in 1963 was that there would be an agreement reached in the 2-year period and everything could be settled.

Mr. LUNA. Yes.

The CHAIRMAN. Since the law was passed nothing was settled through collective bargaining?

Mr. LUNA. Except with the railroads in the East.

The CHAIRMAN. I want to get this for the record, because we are here now asked to pass another law with the same intent of trying to get something done. Under this past law there was no collective bargaining.

Mr. LUNA. That is right.

The CHAIRMAN. Only up to a certain point.

Mr. LUNA. That is right.

The CHAIRMAN. I want this for the record. Now before the court, I understand it has been argued, and I may be wrong on this, that the unions have the right to strike certain railroads if they want to, and this is one of the issues to be decided.

Mr. LUNA. Our position is that the Railroad Labor Act gives us that right. We can serve notice and can move on one railroad and not cause a national crisis. They have taken us to court on that point and Judge Holtzoff held we had to bargain on a national basis, meaning everything we moved on would finally create a crisis. That has been appealed to the court.

The Justice Department has joined with us in this appeal because nowhere in the law does it say that.

The CHAIRMAN. A decision has not been handed down?

Mr. LUNA. The first court handed it down and said we had to bargain on a national basis. Multiple basis, I think is the wording they used.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman. I will keep my questions very brief.

I welcome you here, Mr. Luna, and also Mr. Chesser. Inasmuch as I granted permission that your entire statement go in, I thought I would have to take issue a little bit about one statement you made on page 13.

I agree with your position on compulsory arbitration for employees. Your statement that it will be a "sorry day for human liberties when a giant industry can put a yoke of compulsion on their employees with the aid of Congress."

That is not really exactly true because we didn't do that. Just as in the colloquy you had with the chairman, it was the decision of the court that really put the yoke on you, not Congress.

Mr. LUNA. The law that Congress passed was compulsory arbitration. If it had not been for that law they would not have gotten us into court on it.

Mr. MACDONALD. Yes, but it gave assurance that there would be arbitration between the two parties, mediation and arbitration, and by your own testimony that never happened.

Mr. LUNA. Mediation was over when this all happened, that provision of the Railway Labor Act. I was at the case. What they argued was that the case was not the Railway Labor Act but the intent of Congress. That is what they argued before the judge.

Mr. MACDONALD. But Congress' intent was completely overlooked by the judge.

Mr. LUNA. Mr. Congressman, we tried to get the Secretary of Labor to testify in that case. We tried to get a Congressman to testify in that case. When it is said and done, all those testifying were the railroads and labor. They told the judge that this Public Law 88–108 is what gave them the right to do what they were doing.

Mr. MACDONALD. In my judgment, the judge just misinterpreted the intent of Congress. If you had asked this Congressman to testify about the intent of Congress, I would have been very happy to have done so.

Mr. LUNA. Thank you, sir.

Mr. MACDONALD. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Luna, I want to be sure that I understand where you are. Are you in the same position as Mr. Gilbert?

Mr. LUNA. Yes, sir. We have settled our wage rounds. This controversy is over. We can go back in September and serve new demands that can't be effective before January 1968. From my reading the testimony before this committee, we were participants in the last one and we know what happened in the last 88–108.

Mr. SPRINGER. Did you hear Mr. Leighty testify?

Mr. LUNA. In this session, no, sir.

Mr. SPRINGER. This question of nationwide bargaining came up. I don't want to misquote Mr. Leighty but he didn't think that in the issue presently involved in this dispute which is pending before this committee that you could have individual bargaining.

Mr. LUNA. I have to agree with you, Mr. Springer. I testified before the court that on wages, vacations, holidays, health and welfare, I think has to be handled on a national basis.

Mr. SPRINGER. I want to be sure, that in this dispute at present that you are recommending nationwide bargaining.

Mr. LUNA. We settled on it. The way we did it was this way: After Public Law 88–108 was passed we served individual notice on each railroad. They handle them according to the Railway Labor Act. We never set up a national committee on this wage raise or the last one.

In other words, we served individual notices. We didn't ask for a national handling on it. When we served those and they had handled them with individual management, Mr. Wolfe and I got together on two or three occasions. He made an offer or two. When he made an offer I thought was worth taking to our general chairman, that is on each individual committee, I called the general chairmen together. I read his proposal. They accepted it but it became a part of each individual railroad. It never was handled like we used to on a national committee on a national basis.

In other words, I was trying to keep out of the box that they got us in before, Mr. Springer.

Mr. SPRINGER. I want to make sure that there is no misunderstanding here in this dispute which is now pending involving just these six or eight brotherhoods.

Mr. LUNA. Six.

Mr. SPRINGER. You are not recommending that they bargain with each individual railroad on those issues, are you?

Mr. LUNA. It is too late along the lines to do it now.

Mr. SPRINGER. As a matter of policy, because I want to get this in the record, pursuant to what I understood Mr. Ramsey and Mr. Leighty to testify that they did not believe that you could negotiate these on an individual railroad basis.

Mr. LUNA. I think you could. As they say, we are trying to do on the crew consists.

Mr. SPRINGER. I don't want to get into the crew consist, I have to stay on the issue. I want to be sure that we don't get this committee wrong. It was my understanding that you said that you testified this ought to be on a national basis. Do you still stay with that?

Mr. LUNA. I say it will have to be settled on a national basis. Now if you serve notice on an individual basis under the Railway Labor Act and you can bring it to a peak on one railroad and keep from having a national crisis and get a settlement on that railroad, it can spread to the other railroads.

Now we are going to have to figure some other way to handle these things to keep from causing a crisis every time we want to do something.

Mr. SPRINGER. Let us get what you are recommending today. Are you recommending that this decision and this dispute be settled on an individual basis?

Mr. LUNA. As I said before, I think they have gone too far to do it on this individually. I think they have a letter which we ran into in the 1960 settlement from the unions agreeing to handle it on a national basis.

Mr. SPRINGER. There is an agreement.

Mr. LUNA. I imagine there is.

Mr. SPRINGER. You don't know this for a fact?

Mr. LUNA. No, I don't know this. But in the other dispute I tried to, after I got mixed up in it, back out and start handling on an individual basis. My predecessor agreed it would be on a national basis.

Mr. SPRINGER. You are talking about the issues.

Mr. LUNA. About the issues. I imagine they agreed to handle it nationally. My position in this dispute is this, Mr. Springer: If the railroads know that they have a chance to get a compulsion they are not going to sit down and bargain with the carriers in the collective bargaining that we have known since 1934 when the Railway Labor Act was passed, because you are giving them the advantage.

If the carrier knows that they can't get that, that there is a possibility of a seizure or a freeze, you can call it either thing you want to, that they can't move on things they want and the unions can't get what they want, I think they would sit down and start bargining like they should.

Mr. SPRINGER. The only thing that I know that Mr. Leighty, Mr. Ramsey, and Mr. Wolfe agreed on in this testimony, and I think it is in here, the only thing that I know that those three agreed on, in their testimony, if there is any other issue I don't know what it is, is that it ought to be done on a national basis.

Mr. LUNA. I think you are right on that.

Mr. SPRINGER. Thank you.

The CHAIRMAN. Mr. Kyros.

Mr. KYROS. Thank you, Mr. Chairman, I have no questions.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Thank you, Mr. Chairman.

I want to thank Mr. Luna for his very enlightening information relative to this agreement you were able to reach. You mentioned 26 railroads.

Mr. LUNA. Thirty-four.

Mr. NELSEN. That you had contacted?

Mr. LUNA. Yes, sir.

Mr. NELSEN. And reached an agreement?

Mr. LUNA. Yes, sir. Like I was supposed to in the 2-year period.

Mr. NELSEN. What would be the total number that you would have reached had you been able to negotiate everything?

Mr. LUNA. Judging the larger ones, and I would say that most of the smaller ones are on the standby agreement, I would say that is practically one-third of them.

Mr. NELSEN. Would you be willing to furnish information to the committee as to whom you contacted and discussed this problem with so that we might further interrogate?

Mr. LUNA. I will be glad to.

Mr. NELSEN. I think it would be helpful.

Mr. LUNA. We will be glad to.

(The information requested follows:)

(The following correspondence and listings, submitted by the Brotherhood of Railroad Trainmen, is indicative of negotiations entered into by the brotherhood and certain eastern railroads to obtain an agreement on crew consist:)

NEW YORK, N.Y., *January 29, 1965.*

MR. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Standard Building,
Cleveland, Ohio

DEAR MR. LUNA: This refers to our recent discussions with you concerning crew consist in states comprising the eastern territory and particularly the necessity, in the interest of the railroads, their employees and the public, for repeal of the so-called full crew laws.

During our discussion you indicated there was an area subject to agreement that would provide protection for the employees you represent and thereby eliminate your opposition to repeal of existing full crew laws. In line with this discussion and on behalf of the eastern railroads that are shown on the attached sheet designated as Attachment "A", we offer the following:

1. On all railroads, parties to this Agreement, the provisions of the Award of Arbitration Board 282 will continue to be applicable, including decisions of special boards of adjustments and agreements between the parties arising under the Award's provisions, until the specified termination date of the Award (January 25, 1966), except in states having so-called full crew laws in effect the ground road and yard crew consist provisions of which may be repealed prior to the January 25, 1966 termination date. In the event the ground road and yard crew consist provision of the full crew law is repealed in one or more of the states presently having such laws, in which one or more of the carriers, parties of this Agreement operate, the provisions of this Agreement shall become effective in that State coincident with such repeal or on and after January 25, 1966, whichever date is earlier.

2. On and after January 25, 1966 (or on and after the earlier effective date in a particular state resulting from the repeal of the ground road and yard crew consist portion of the full crew laws in such states having such laws), a rule shall be inserted in the respective agreements between the parties to this Agreement applying to ground road and yard service employees which will provide for a crew consist on all ground road and yard crews in all classes of road and yard service of not less than a conductor (foreman) and two (2) trainmen (helpers), including assistant conductors, ticket collectors, baggagemen, brakemen and flagmen; provided, however, that on railroads which had established crew arrangements prior to January 25, 1964, which permitted crews to be operated with less than two (2) trainmen

(helpers), such crew arrangements shall remain in effect subject to change in accordance with the provisions of paragraph 6 hereof. The aforementioned crew consist rule shall not apply to self-propelled devices, light engine, helper and exchange engine movements, which shall be manned in accordance with existing agreements in effect with the organization signatory hereto.

3. In any case in which the carrier has called or filled a crew in accordance with the foregoing paragraph and the consist of such crew falls below the prescribed minimum by reason of the failure of a crew member to report, or by being separated from the crew after reporting, such crew will function in accordance with existing rules.

4. The carriers shall have the right to discontinue the use of trainmen in excess of the minimum crew consist established by paragraph 2, except that the carriers will comply with the provisions of agreements or full crew laws in effect on the date of this Agreement with respect to the employment of trainmen in excess of the minimum crew consist provided by paragraph 2 so long as it is necessary to do so in order to provide employment for trainmen with seniority dates prior to January 25, 1964, who were not in a furlough status on that date and for whom no other employment in train service on their seniority district is available at his governing terminal (home or away from home as the case may be).

5. Upon acceptance of this Agreement the Brotherhood of Railroad Trainmen will immediately withdraw all opposition to repeal of existing statutory and regulatory minimum crew requirements and from participation in any litigation concerning the legality of such requirements in the states covered by this Agreement. Further, the Brotherhood will not institute or support the adoption of any new minimum crew consist laws or regulations in the states covered by this Agreement while this Agreement is in effect.

6. This Agreement will continue in effect until January 1, 1970, and thereafter until changed in accordance with the provisions of the Railway Labor Act, as amended.

If you are in accord with the foregoing, please indicate your acceptance by affixing your signature in the space provided below.

Very truly yours,

A. E. PERLMAN,
President, New York Central Railroad.
STUART T. SAUNDERS,
Chairman of the Board, Pennsylvania Railroad.
WILLIAM WHITE,
Chairman, Erie-Lackawanna Railroad.

Accepted:

CHARLES LUNA,
President, Brotherhood of Railroad Trainmen.

ATTACHMENT A

The Ann Arbor Railroad Co.
Bessemer and Lake Erie Railroad Co.
Canadian National Railways
Central Vermont Railways, Inc.
The Delaware & Hudson Railroad Corp.
Detroit, Toledo & Ironton Railroad Co.
Erie-Lackawanna Railroad Co.
Grand Trunk Western Railroad Co.
The Lehigh & Hudson River Railway Co.
Lehigh Valley Railroad Co.
The Long Island Rail Road
Monon Railroad Co.
New York Central System:
The New York Central Railroad Co.
Indiana Harbor Belt Railroad Co.
Chicago River & Indiana Railroad Co.
Pittsburgh & Lake Erie Railroad Co.
Lake Erie & Eastern Railroad Co.
The Cleveland Union Terminals Co.
The New York, New Haven & Hartford Railroad Co.
New York, Susquehanna & Western Railroad Co.
The Pennsylvania Railroad Co.: Baltimore & Eastern Railroad Co.
(Applies to all states in which the above railroads operate in the United States.)

(The following eastern railroads accepted the preceding agreement subsequent to January 29, 1965:)

Pittsburgh, Chartiers & Youghiogheny Railway Co.
Montour Railroad
Monongahela Railway
Baltimore & Ohio Railroad Co.
Staten Island Rapid Transit Railway Co.
Curtis Bay Railroad Co.
Pennsylvania-Reading Seashore Lines

(The following eastern railroads declined to sign the January 29 agreement:)

Maine Central Railroad Co.
Washington Terminal Co.

BROTHERHOOD OF RAILROAD TRAINMEN,
Cleveland, Ohio, February 1, 1965.

Re agreement of January 29, 1965, between Brotherhood of Railroad Trainmen and certain eastern railroads on subject of crew consist.

Vice Presidents and
Alternate Vice Presidents
Brotherhood of Railroad Trainmen.

DEAR SIRS AND BROTHERS: You will recall our consideration, during the meeting of Grand Lodge officers held January 12, 1965, of a proposed settlement of the crew consist issue under discussion with representatives of the Eastern Railroads Presidents Conference, which would result in the establishment of a uniform rule applicable to the participating railroads whereby the crew consist in both road and yard service would be not less than one conductor and two brakemen. The proposition as explained was unanimously approved by all of you who were present.

After discussing the matter with the carrier representatives on several occasions, I am pleased to report to you that on January 29, 1965, an agreement was reached with 23 Eastern railroads providing for a crew consist rule to be inserted in the respective agreements between the parties on each railroad, party to the settlement, which will establish a crew consist on all ground road and yard crews in all classes of road and yard service of not less than a conductor (foreman) and two (2) trainmen (helpers), effective with the expiration of the Award of Board 282 or earlier in a Full Crew Law state in the Eastern Territory in event such law is repealed.

The terms of the agreement are self-explanatory; however, State Legislative Representatives are being funished copy of this letter and attachment and their attention is particularly called to the provisions of Paragraph 5, Page 3 of the Agreement, wherein the Brotherhood is committed to immediately withdraw all opposition to the repeal of existing statutory and regulatory minimum crew requirements and from participation in any litigation concerning the legality of such requirements in the states covered by the Agreement. The Brotherhood will not institute or support the adoption of any new minimum crew consist laws or regulations *in the states covered by this Agreement while this Agreement is in effect.*

The above commitment applies only to the Eastern states, and has no application whatsoever to our Full Crew Law activities in other states.

State Legislative Representatives in the states comprising the *Eastern Territory* are cautioned to take care that the terms of this Agreement concerning Full Crew Laws are fully compiled with, taking any necessary action in that connection without delay.

General Chairmen on the railroads, parties to this settlement, are likewise being furnished with copy of this letter and the attachment, and should acquaint their committeemen and lodges with this development. Additional copies of the agreement are available upon request. All other U.S. General Chairmen are being furnished copy as information.

All concerned are reminded that under this settlement, any reductions which may be made under the agreement will be made in accordance with the principles of attrition, so that all employees who held seniority dates prior to January 25,

1964 and who were not in furlough status on that date will be protected. In discontinuing the use of trainmen in excess of the minimum crew consist established in the Agreement, the carriers will comply with the provisions of agreements or Full Crew Laws in effect on the date of the Agreement by maintaining the excess crew personnel assignments even if the crew law is repealed, to the extent necessary to provide employment to trainmen and/or yardmen with seniority dates prior to January 25, 1964, who were not in a furlough status on that date, in accordance with the Agreement.

Recent developments concerning Full Crew Law legislation demanded that this Organization give careful consideration to any proposition which will serve to establish and preserve a firm safe crew consist rule. A realistic approach to the problems demanded that we take the necessary steps to ensure that train and yard crews, regardless of the decisions of special boards under Arbitration Board No. 282's Award, shall continue to operate with not less than a conductor and two brakemen in order to provide adequate safety of operation for the good of the public and employees of the railroads alike. It is to the mutual advantage of the parties to preserve a train crew operation which can safely and efficiently perform their duties under the hazardous conditions in the industry. I am pleased that representatives of the Eastern carriers were far-sighted enough to recognize the need for more harmonious relations between railroad management and employees by sitting down at the conference table for the purpose of working out a solution to our most serious point of difference.

What about the other railroads? An early meeting is anticipated with representatives of the remaining railroads to discuss this problem as it will affect them with the expiration of the Award of Arbitration Board No. 282.

Fraternally yours,

CHARLES LUNA, *President.*

(Letters dated March 15, 1965, were addressed to the following western territory railroad presidents. A sample letter, addressed to R. K. Heineman, with several typical replies, follows the listing:)

Robert K. Heineman, president, Alton & Southern Railroad, Post Office Box 270, East St. Louis, Ill.

E. S. Marsh, president, Santa Fe Lines, 80 East Jackson Boulevard, Chicago, Ill.

L. A. Evans, president, The Belt Railway Co. of Chicago, 6900 South Central Avenue, Chicago, Ill.

David O. Mathews, president, Chicago & Eastern Illinois Railroad, 332 South Michigan Avenue, Chicago, Ill.

J. E. Dare, president, Chicago & Illinois Midland Railway Co., 821 Illinois Building, Springfield, Ill.

C. J. Fitzpatrick, president, Chicago & North Western Railway Co., 400 West Madison Street, Chicago, Ill.

David O. Matthews, president, Chicago & Western Indiana Railroad Co., 47 West Polk Street, Chicago, Ill.

H. C. Murphy, president, Burlington Lines, 547 West Jackson Boulevard, Chicago, Ill.

E. T. Reidy, president, Chicago Great Western Railway, 720 Mulberry Street, Kansas City, Mo.

William J. Quinn, president, Chicago, Milwaukee, St. Paul & Pacific Railroad, 516 West Jackson Boulevard, Chicago, Ill.

R. E. Johnson, president, Chicago, Rock Island & Pacific Railroad Co., La-Salle Street Station, Chicago, Ill.

D. S. Day, president, Chicago Short Line Railway Co., 9746 Avenue "N," Chicago, Ill.

J. E. Rice, president, Chicago, West Pullman & Southern Railroad Co., 2728 East 104th Street, Chicago, Ill.

G. B. Aydelott, president, The Denver & Rio Grande Western Railroad Co., 1531 Stout Street, Denver, Colo.

J. E. Nellis, president, Des Moines Union Railway Co., 8 North Jefferson Street, Roanoke, Va.

Gilbert Novotny, president, East St. Louis Junction Railroad Co., National Stock Yards, Ill.

H. E. Smith, president, Galveston, Houston & Henderson Railroad, Post Office Box 28, Galveston, Tex.

H. Weldon McGee, president, Green Bay & Western Railroad Co., Green Bay, Wis.

R. H. Anderson, president, Houston Belt & Terminal Railway Co., Union Station, Houston, Tex.

Wayne A. Johnston, president, Illinois Central Railroad, 135 East 11th Place, Chicago, Ill.

R. D. Shelton, president, Illinois Northern Railway, 80 East Jackson Boulevard, Chicago, Ill.

E. L. Keister, president, Illinois Terminal Railroad Co., 710 North 12th Boulevard, St. Louis, Mo.

W. N. Deramus III, president, Kansas City Southern Lines, 114 West 11th Street, Kansas City, Mo.
D. B. Jenks, president, Missouri Pacific Railroad Co., 210 North 13th Street, St. Louis, Mo.
L. B. Coleman, president, Lake Superior & Ishpeming Railroad Co., Marquette, Mich.
R. W. Schmidt, president, Manufacturers Railway Co., 2927 South Broadway, St. Louis, Mo.
H. E. Pence, president, Minneapolis, Northfield & Southern Railway, 911 Hennepin Avenue, Minneapolis, Minn.
Leonard H. Murray, president, Soo Line Railroad, Soo Line Building, Minneapolis, Minn.
Robert Faegre, president, Minnesota, Dakota & Western Railway Co., Northstar Center, Seventh and Marquette, Minneapolis, Minn.
J. D. Taylor, president, Minnesota Transfer Railway, 175 East Fourth Street, St. Paul, Minn.
Charles T. Williams, president, Missouri-Kansas-Texas Railroad Co., Katy Building, Dallas, Tex.
Robert S. Macfarlane, president, Northern Pacific Railway, Fifth and Jackson Streets, St. Paul, Minn.
D. J. McGanney, president, Northwestern Pacific Railroad Co., 65 Market Street, San Francisco, Calif.
C. A. Eckart, president, Pacific Coast Railroad Co., Great Northern Building, 404 Union Street, Seattle, Wash.
G. J. Willingham, president, Peoria and Pekin Union Railway Co., Peoria, Ill.
L. W. Menk, president, St. Louis-San Francisco Railway Co., 906 Olive Street, St. Louis, Mo.
H. J. McKenzie, president, St. Louis Southwestern Railway Lines, 1517 West Front Street, Tyler, Tex.
B. F. Biaggini, president, Southern Pacific Lines, 65 Market Street, San Francisco, Calif.
William H. Moore, president, Terminal Railroad Association of St. Louis, Union Station, St. Louis, Mo.
J. W. Kraemer, president, The Texas Mexican Railway Co., Laredo, Tex.
J. Russel Coulter, president, Toledo, Peoria & Western Railroad Co., Peoria, Ill.
E. H. Bailey, president, Union Pacific Railroad, 15th and Dodge Streets, Omaha, Nebr.
J. H. Lloyd, president, Union Railway, 210 North 13th Street, St. Louis, Mo.
Frederic B. Whitman, president, The Western Pacific Railroad Co., 526 Mission Street, San Francisco, Calif.

— — —

BROTHERHOOD OF RAILROAD TRAINMEN,
Cleveland, Ohio, March 15, 1965.

MR. ROBERT K. HEINEMAN,
President, Alton & Southern Railroad, East St. Louis, Ill.

DEAR SIR: Undoubtedly you have heard about and read the recent agreement between this organization and the representatives of twenty-three Eastern Railroads, (four additional railroads have now become parties to this Agreement), disposing of the crew consist issue in states comprising the Eastern Territory.

The Award of Arbitration Board No. 282 expires under its express terms as of January 25, 1966. This will automatically require the parties to revert to the crew consist agreement rules and practices which were in effect prior to January 25, 1964. It would be necessary at that time for either party desiring to change such crew consist rules or practices to serve new Section 6 notices under the provisions of the Railway Labor Act, as amended and proceed accordingly. When this happens, the parties on each property will be at the crossroads, because the provisions of Public Law 88–108 which created Arbitration Board No. 282 clearly contemplate that, in the interim period of operation of the Arbitration Board and its Award, it is the obligation of the parties to put forth every effort to dispose of the crew consist issue on each individual railroad. It follows that on railroads where this has been done no dispute over crew consist will exist on January 25, 1966.

I have endeavored to arrange a conference with Messrs. E. S. Marsh, President, The Atchison, Topeka and Santa Fe Railway Company, Wayne A. Johnston, President, Illinois Central Railroad and D. B. Jenks, President, Missouri Pacific Railroad Company, for the purpose of discussing a similar agreement on railroads in the Western Territory but have not been successful in such an endeavor.

Believing that you are interested in making a positive approach to this extremely serious problem, the purpose of this letter is to suggest that a con-

ference be arranged between us for the purpose of reaching an agreement covering the railroad properties of which you are President.

It will be appreciated if you will arrange a mutually satisfactory time and place for us to meet and endeavor to reach an agreement covering the railroad properties of which you are President.

Sincerely yours,

CHARLES LUNA, *President.*

ALTON & SOUTHERN RAILROAD,
East St. Louis, Ill., March 18, 1965.

MR. CHARLES LUNA,
President,
Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: I have your letter of March 15 to Mr. Robert K. Heineman, President, Alton and Southern Railroad, suggesting a conference with him.

For the past several months Mr. Heineman has been incapacitated due to illness including a minor heart involvement. However, his recuperation is progressing nicely and even though his work activities may be limited for a time, he now anticipates returning to his office sometime early in April, 1965. You can rest assured that your letter will be brought to his attention as soon as he returns to his office.

Personal regards.

Sincerely,

HENRY R. NEILL,
Vice President, Executive Department.

BURLINGTON LINES,
Chicago, Ill., March 24, 1965.

MR. CHARLES LUNA,
President,
Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: I have before me your letter of March 15 referring to an agreement between your organization and the representatives of twenty-three Eastern Railroads disposing of the crew consist issue in States comprising the Eastern Territory.

If there are any questions pertaining to crew consist on this property they should be handled with Mr. A. E. Egbers, Assistant to Vice-President—Operation, who is the highest designated officer on the Burlington for this purpose.

With kind regards.

Sincerely,

H. C. MURPHY, *President.*

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO.,
Chicago, Ill., March 18, 1965.

Mr. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR SIR: Acknowledging yours of March 15, 1965, suggesting a meeting between us with respect to crew consist matters.

Since we have a crew consist rule on the Rock Island and no reductions in the number of brakemen was requested by us or have been made under the provisions of Award of Arbitration Board No. 282, I am at a loss to understand the purpose of a meeting such as proposed by you insofar as the Rock Island is concerned.

In any event, all of our labor matters are under the direction of G. B. Mallery, Vice President—Labor Relations, and any inquiries concerning such matters should be addressed to him.

Yours truly,

R. E. JOHNSON, *President.*

THE DENVER & RIO GRANDE WESTERN RAILROAD CO.,
Denver, Colo., March 18 1965.

MR. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: This will acknowledge your letter of March 15, suggesting a conference to discuss the crew consist question resulting from the expiration of the terms of Arbitration Award 282 in January 1966.

I do not anticipate that any difficulties will arise on this property regarding this question and believe that it can and will be handled satisfactorily between our Personnel Department and representatives of your organization. For this reason it would not seem that a conference is necessary.

Sincerely,

G. B. AYDELOTT, *President.*

CHICAGO & NORTH WESTERN RAILWAY CO.,
Chicago, Ill., March 18, 1965.

MR. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: Thank you for your letter of March 15th regarding the recent agreement between your organization and the representatives of twenty-three Eastern railroads with regard to Arbitration Award No. 282.

Mr. T. M. Van Patten, Director of Personnel, is in charge of labor relations and labor agreements on this property.

From what little we know about your agreement with the Eastern carriers, we on the North Western are not interested; however, Mr. Van Patten will be very glad to discuss this subject with you or your designated representative at a mutually convenient time and date.

Sincerely yours,

C. J. FITZPATRICK, *President.*

Mr. NELSEN. I have no more questions, but I did agree to yield to Mr. Springer if he needed the rest of my time.

Mr. SPRINGER. I think I have asked all the questions I wished.

The CHAIRMAN. Mr. Blanton.

Mr. BLANTON. Thank you, Mr. Chairman. I have no questions.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. Thank you, Mr. Chairman.

I have enjoyed reading your statement as well as listening to your additional remarks. I thought your comments were very colorful. You mentioned a letter of agreement between the railroads and the unions to the effect that a dispute must be settled on a national basis.

Do you happen to know what the standing of that letter would be in the eyes of the court?

Mr. LUNA. I know what it was in our case, what our attorneys told it to us to be. I think I should explain. The way we have handled these cases through the years, under the Railway Labor Act our interpretation was that you had to serve the notice on each individual railroad. You had to go through the procedures set up by the act on each individual railroad until an agreement was made between the management that you would appoint a national rule committee and they would appoint one.

They got a pair of attorneys from their railroads and we gave them a pair of attorneys from our committee to make a settlement in the 1959 and 1960 case, that finally resulted in the compulsory arbitration Public Law 88–108. When I took over as president on Janu-

ary 1, 1963, I tried to get out of the noose that was going around their neck. I tried to bring it back on the individual railroads. They produced a letter that the president ahead of me had agreed that this would be handled on a national basis.

Our attorneys told us that we couldn't get out of it in court and it was tried and we couldn't get out of it because we had agreed to it. I imagine the same thing has happened in the six non-ops.

Mr. KEITH. It does not seem that such a letter is in the public interest, nor does it seem that it should have such opened-ended authority as to continue to have effect.

I would like to have that letter made a matter of record at this point.

Mr. LUNA. Of course, I wouldn't have it. We are not one of these six, Congressman.

Mr. KEITH. But it was something that was used to block your desire to bargain with the individual railroads.

Mr. LUNA. You mean our letter?

Mr. KEITH. Yes; the letter by your predecessor. I would like to have that a matter of record at this point.

Mr. LUNA. I will be glad to. I can get you that.

The CHAIRMAN. Fine.

(The letter requested follows:)

BROTHERHOOD OF RAILROAD TRAINMEN,
Cleveland, Ohio, December 8, 1959.

Letter No. A–7.

Chairmen, General Grievance Committees,
Brotherhood of Railroad Trainmen,
In the United States.

DEAR SIRS AND BROTHERS: In my letter No. A–5 (corrected), dated November 16, 1959, I stated in part:

> "Until further instructions are received from me you should make no connection with management's request that their rule proposals be handled on a national basis."

Enclosed are copies of a form letter which the General Chairman of each railroad should forward to the General Manager or other appropriate officer of the Company on December 21, 1959. The letter you forward to the General Manager or other appropriate officer may be reproduced on stationery of the General Grievance Committee or the enclosed letter may be used with the name, title and the officer of the company upon whom the letter will be directed to be inserted; also the name of the railroad should be inserted in the place provided in the second paragraph of the letter. Of course, the signature of the General Chairman should be affixed. Under no circumstances should the letter be released before December 21, 1959.

It is important that this communication should be forwarded to your Management's representative on December 21, 1959, *and it should be signed only by the General Chairman of our Brotherhood.*

According to present plans, the General Chairmen of the B. of L. E., B. of L.F. & E. and O.R.C. & B. will forward similar letters to the Management representatives of railroads where they represent employes in the operating groups, but the General Chairmen of each of such organizations will be instructed to forward separate or individual letters. Hence, the necessity for you to forward a separate letter with only your signature affixed. Because the S.U.N.A. had already served counter-proposals, they were not included with the other operating organizations in this procedure.

Strict compliance with these instructions on the part of all concerned is necessary to assure the successful handling of this matter.

Copies of all correspondence passing between General Chairmen and the company officials in regard to this matter must be forwarded promptly to the Presi-

dent of the Brotherhood of Railroad Trainmen, and such correspondence should be sent to 1528 Standard Building, Cleveland 13, Ohio.

Fraternally yours,

W. P. KENNEDY, *President.*

BROTHERHOOD OF RAILROAD TRAINMEN,

_____ December 21, 1959.
(City and State)

_____
(Name of Railroad Official)

_____
(Title)

_____
(Name of Railroad)

_____
(Street Address)

_____
(City and State)

DEAR SIR: This has reference to your request for national handling on the issues that have been raised by the various notices we received from you under date of November 2, 1959.

Inasmuch as no agreement was reached in our conferences on the notices served by you on the General Grievance Committee of the Brotherhood of Railroad Trainmen on the ——— Railroad, dated November 2, 1959, this is to advise *we are willing to refer these matters to a National Conference Committee which will be established in conformity with the laws of the Brotherhood of Railroad Trainmen.* You will be informed of the membership of such committee at an early date.

It is our understanding from the communication which accompanied your notice of November 2, 1959, that you have delegated authority to a National Conference Committee to represent you in future negotiations. *Will you please advise if this is correct?*

It should also be understood that the right is reserved to serve counter-proposals at some future date for national handling.

Very truly yours,

_____ _____,
General Chairman.

Mr. KEITH. I asked representatives of management in this dispute as to whether or not there were any lines that could be struck without actually constituting a national emergency.

It was my recollection that their answer was in the negative that there were no rail lines with which they were acquainted which could provide for alternative services that would satisfy the requirements of our national welfare.

Mr. LUNA. Mr. Congressman, that is what we were trying to do in this last dispute, take parallel lines. They took us to the court. That is where they said we had to handle them all. Their position was that we were whipsawing.

Mr. KEITH. Was that where this letter came into prominence?

Mr. LUNA. No, that was the one before this, sir.

Mr. KEITH. But there are in your view many instances of parallel lines where a strike would in no way contribute to a national emergency?

Mr. LUNA. Yes, sir, lots of parallel lines. Lots of industries are served by two and three railroads, big industries.

Mr. KEITH. That is all the questions I have, Mr. Chairman.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. To continue with Mr. Keith's point, would this possibility of striking just one line or two lines at a time then in your opin-